

# **A Buyer Orientation**

Prepared especially for

## **Home Buyer**

Another Personal Service By:

# Mark Dernovsek

Think Real Estate? Think "Mark Da-Man"

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# The Two Main Reasons People Buy Homes:

### **Tax Advantages**

Property taxes and qualified home interest may be deductible on Schedule A, for itemized deductions.

### **Investment Potential**

The largest investment for most people is their home. In the long run, investments in homes far outpace inflation. Homeowners build equity and, in most states, can borrow against it.



# **Tax Benefits**

The tax laws beginning in 1998 and in some cases a little earlier have changed in regards to homeownership and the previous requirement to reinvest profits from the sale of a principal residence.

The new law allows married taxpayers filing a joint return to exclude up to **\$500,000** of gain on the sale of their principal residence. Single taxpayers can exclude up to **\$250,000** of gain.

To qualify for the exclusion, homeowners must have lived in and used the home as their primary residence for **TWO OUT OF THE PRECEEDING FIVE YEARS.** Homeowners are allowed to take the exclusion **ONCE EVERY TWO YEARS.** 

Plus,

HOMEOWNERS MAY TAKE THE EXCLUSION AS MANY TIMES AS THEY LIKE, there is no cap on how much total gain they may exclude in their lifetimes.

#### THIS IS A SIGNIFICANT CHANGE IN THE TAX LAW

**CAUTION:** Before you make financial decisions based on tax laws, consult an expert on taxes as they relate to real estate.

# More Tax Benefits



#### TRANSFEREES

Homeowners going to a LESS expensive real estate market will now be able to purchase a LESS expensive home WITHOUT worrying about the rollover rules, exclude the gain, and take the cash and do whatever they want with it.

#### **EMPTY NESTERS AND RETIREES**

Homeowners wishing to "downsize" will be able to sell their current home, take their equity, claim the exclusion, buy a condominium or smaller home and use the leftover proceeds for a retirement investment.

#### **DIVORCEES AND OTHERS**

Homeowners who want less expensive housing, or want to rent, will be able to scale down without fear of a big capital gains tax bite.

#### **SINGLES 55 OR OLDER**

Can stop worrying whether a prospective spouse has already taken their exclusion - the new law allows new exclusions even if the old exclusion was used.

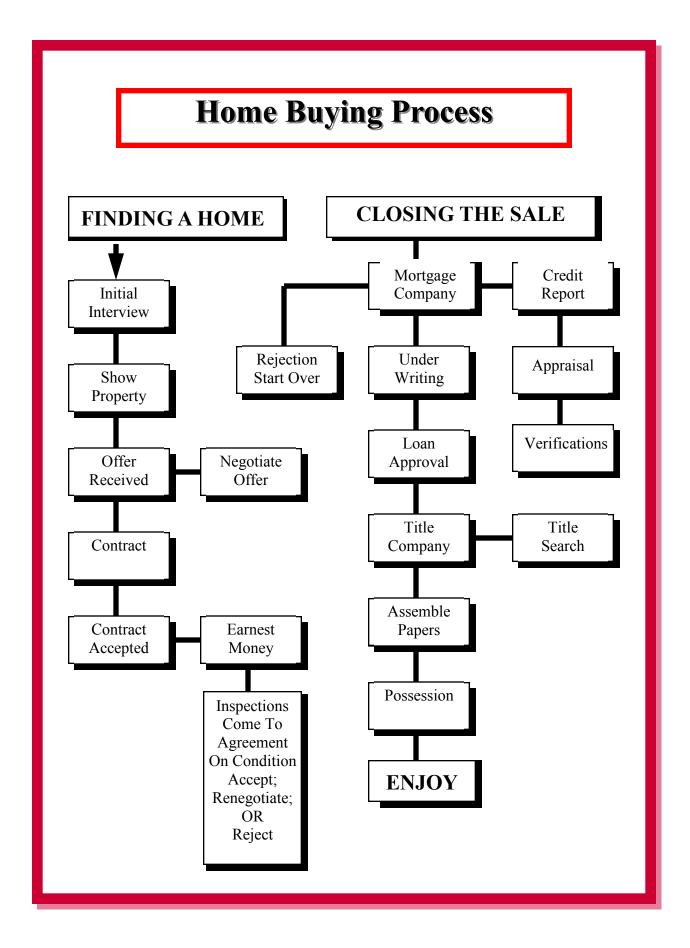
There are other changes that could significantly affect "do-it-yourself" fixer-uppers and owners of second homes or rental properties.

**CAUTION:** Before you make financial decisions based on tax laws, consult an expert on taxes as they relate to real estate.



# 7 Reasons To Buy A Home

- **1** Tax Deductibility of Mortgage Interest
- **2** Tax Deductibility of Property Taxes
- Appreciation Potential (There are no guarantees!)
- Deferred Gain and Capital Gain Treatment (Stay abreast of tax code changes!)
- **6** Once in a Lifetime Exclusion
- **6** Principal Accumulation
- You can enjoy it Pride of Ownership



### Multiple Listing Service Member



As a member of the Multiple Listing Service, I can show you any property.

If you should see an ad in the paper, a sign in a yard, an ad in a real estate type book, information from a friend, notice new construction see a property on the Internet, or a For Sale By Owner, call me to find out the information. If you want to see it, I will show it to you.

### **For Sale By Owner**

A homeowner trying to sell a home is usually doing so in hopes of saving the commission. Coincidentally, this is the same reason a buyer wants to deal directly with a homeowner.

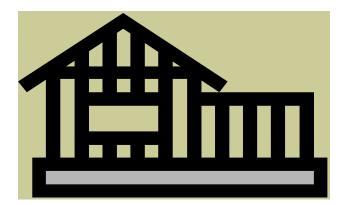


Many times a homeowner will work with an agent even though the home is not listed if the agent introduces the buyer to the property.

Should you see a FSBO (For Sale By Owner) and want the **advantages** of my services, please let me contact the owner and set the appointment.

In this world of litigation, you really ought to have professional representation when you purchase a home, especially when neither you nor the For Sale By Owner is represented. Not good!

# **New Homes**



I can work with most builders and can get all the information you need to make any decisions, but I will need to accompany you to the property on the initial visit.

By letting me help you with builders, you get all the services offered in this presentation and those offered by the builder as well.

If you purchase an airline ticket from a commercial ticket agency or from the airline direct you typically pay the same price. When you purchase a home under construction from a Realtor or from a Builder you typically pay the same price. But when you purchase it directly from the Builder, you do so without representation. The Builder cannot afford to discount the home because that would distort the sales prices of sold properties for future appraisals.

You will get more, but you will not pay more for it!

<b>Financial Information</b>	
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Including taxes & insurance, what monthly payment	ts do you want:	\$
What approximate price range do you want to look i	in: \$	_to \$
How much cash do you have available for a down pa	ayment:	\$
Does this include closing costs: Yes + No +		
Are you currently renting? Yes + No +		
How much do you think your present home is worth	?	\$
What is the unpaid balance? \$ Inte	erest Rate:%	Term Years
Dated/, type of loan	Monthly Payment	\$
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Are you current on all debts? Yes +	- No + - No +	\$ \$ \$ \$ \$
Are you current on all debts? Yes + Is there any problem with your credit? Yes +		\$\$ \$\$ \$\$
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Are you current on all debts? Yes + Is there any problem with your credit? Yes + What is your monthly income? \$ Your spouse's income? \$ Othe	No + No + Employed + S er monthly income? \$	\$\$ \$\$ \$\$

# **Pre-Approval Program**

Many buyers are applying for a loan and obtaining approval **BEFORE** they find the home they want to buy.



Here are the benefits:



You look at the "right" homes.



You save money dealing with a comfortable seller.

You close more quickly.

You minimize trauma of not knowing whether or not you qualify.

Because you are pre-approved, you literally become an "all cash" buyer in the eyes of the seller which puts you in a much greater bargaining position.

# **Items Needed For A Credit Application**

#### Employment

Addresses for two full years Gross monthly income W-2's, if applicable Proof of pensions, retirement, disability or Social Security Proof of income from rentals, investments, etc. Proof of child support or alimony paid/received Year to date pay stub

If Self-employed:

Two years 1040 Tax Returns Current year profit and loss statement

#### Creditors

Each creditor's name, address, type of account and address Account numbers Monthly payments and approximate balances Amount of child care expenses

#### Banking

Names and addresses of saving institutions Account numbers for all accounts Type of accounts and present balances

#### Miscellaneous

List of assets in stocks, bonds, land Life insurance cash value (documented if used as cash down payment) If applicant is selling a home, a copy of sales contract(s) Social Security numbers for all parties Veterans - Certificate of Eligibility & DD-214 Cash or check to pay for application fee

#### **REALTORS®**

Copy of sales agreement Copy of listing on property Instructions on how appraiser is to gain entrance

# **Property Inspection**

Your Keller Williams Realty Professionals sales contract includes a provision that gives you the right to inspect the mechanical, electrical, plumbing and structural portions of the property.

There are numerous inspection companies that provide services of this type. You can accompany the inspector to ask questions and receive a written report itemizing any areas of concern. Home inspections typically cost between \$350 - \$500 depending upon the inspector selected and sometimes the size of the home being inspected.



If repairs are needed, you can request the seller to make them in accordance with the provisions of the sales contract. Sellers, however, are under no obligation to make such repairs. Sellers can make all repairs, some repairs or none of the repairs indicated.

As the purchaser, if you are unhappy with the condition are referred to in the inspection report and/or the seller is unwilling or unable to make the desired repairs, you may, at your discretion, cancel the Agreement.



# Accuracy Of Information

Listing agents obtain information regarding properties that they list from many sources including the owners of the property. This information is so overwhelming, that it is virtually impossible to verify each piece of information. Therefore, as a buyer, it is imperative that you advise your agent of what specific aspects of the property are important to you. It then becomes incumbent upon your agent to verify the information that is important to you.

#### SURVEYS

Buyers are strongly encouraged to obtain a survey on all real estate purchases. The survey will denote the exact location of boundary lines and the possibility, location and extent of any easements or encroachments which might affect the property being purchased.

#### **OWNER'S TITLE INSURANCE**

Buyers are further encouraged to obtain an owner's policy of title insurance covering and insuring the property interests of the purchaser. Such a policy provides the greatest protection afforded a purchaser in the purchase of real estate. The next page lists the many title problems that may exist.

Buyers are strongly encouraged to delete the standard "survey exception" from the owner's policy of title insurance. This deletion then provides the owner with protection from errors in the survey. There is a fee for doing so.



Most states **REQUIRE** your Realtor and Seller to disclose all "**material**" facts about a real estate property (homes & land). There are "other" facts regarding the property that Home Buyers may want to know but **ARE NOT** required and in some cases **CANNOT** be disclosed by law. Such facts are oftentimes referred to as creating a "stigmatized" property. Examples of such homes are:

- Location of Sex Offenders in the neighborhood
- Murder or serious crime that occurred on the property
- Suicide that occurred on the property
- The home may be considered as being haunted
- The home owner(s) may have had a serious illness
- Someone may have died in the property

While these may be important to **YOU**, the home buyer, it is important to understand that such incidents **ARE NOT REQUIRED** to be disclosed by the Seller nor the Seller's agent. Also, such fact may only be disclosed with the written consent of the Sellers.

Keller Williams Realty Professionals, Louisiana encourages home owners of such properties to disclose these facts but again, they are **NOT** required to do so.

If such incidents are critical to your home buying decision, you are cautioned to conduct your research accordingly.

#### 73 Title Problem Areas

(Where something "could" go terribly wrong)

Forged deeds, mortgages, satisfactions or releases.

Deed by person who is insane or mentally incompetent.

Deed by minor (may be disavowed).

Deed from corporation, unauthorized under corporate bylaws or given under falsified corporate resolution.

Deed from partnership, unauthorized under partnership agreement.

Deed from purported trustee, unauthorized under trust agreement.

Deed to or from a "corporation" before incorporation, or after loss of corporate charter.

Deed from a legal nonentity (styled for example, as a church, charity or club).

Deed by person in a foreign country, vulnerable to challenge as incompetent, unauthorized or defective under foreign laws.

Claims resulting from use of "alias" or fictitious namestyle by a predecessor in title.

Deed challenged as being given under fraud, undue influence or duress.

Deed following nonjudicial foreclosure, where required procedure was not followed.

Deed affecting land in judicial proceedings (bankruptcy, receivership, probate, conservatorship, dissolution of marriage), unauthorized by court.

Deed following judicial proceedings, subject to appeal or further court order.

Deed following judicial proceedings, where all necessary parties were not

Lack of jurisdiction over persons or property in judicial proceedings.

Deed signed by mistake (grantor did not know what was signed).

Deed executed under falsified power of attorney.

Deed executed under expired power of attorney (death, disability or insanity of principal).

Deed apparently valid, but actually delivered after death of grantor or grantee, or without consent of grantor.

Deed affecting property purported to be separate property of grantor, which is in fact community or jointly owned property.

Undisclosed divorce of one who conveys as sole heir of a deceased former spouse.

Deed affecting property of deceased person, not joining all heirs.

Deed following administration of estate of missing person, who later reappears.

Conveyance by heir or survivor of a joint estate, who murdered the decedent.

Conveyances and proceedings affecting rights of service member protected by the Soldiers and Sailors Civil Relief Act.

Conveyance void as in violation of public policy (payment of gambling debt, payment for contract to commit crime, or conveyance made in restraint of trade).

Deed to land including "wetlands" subject to public trust (vesting title in government to protect public interest in navigation, commerce, fishing and recreation).

Deed from government entity,

Ineffective release of prior satisfied mortgage due to acquisition of note by bona fide purchaser (without notice of satisfaction).

Ineffective release of prior satisfied mortgage due to bankruptcy of creditor prior to recording of release (avoiding powers in bankruptcy).

Ineffective release of prior mortgage or lien, as fraudulently obtained by predecessor in title.

Disputed release of prior mortgage or lien, as given under mistake or misunderstanding.

Ineffective subordination agreement, causing junior interest to be reinstated to priority.

Deed recorded, but not properly indexed so as to be locatable in the land records.

Undisclosed by recorded federal or state tax lien.

Undisclosed but recorded judgment or spousal/child support lien.

Undisclosed but recorded prior mortgage.

Undisclosed by recorded notice of pending lawsuit affecting land.

Undisclosed by recorded environmental lien.

Undisclosed by recorded option, or right of first refusal, to purchase property.

Undisclosed by recorded covenants or restrictions, with (or without) rights of reverter.

Undisclosed by recorded easements (for access, utilities, drainage, airspace, views) benefiting neighboring land.

Undisclosed by recorded boundary,

#### 73 Title Problem Areas (Continued)

Errors in tax records (mailing tax bill to wrong party resulting in tax sale, or crediting payment to wrong property).

Erroneous release of tax or assessment liens which are later reinstated to the tax rolls.

Erroneous reports furnished by tax officials (not binding local government).

Special assessments which become liens upon passage of a law or ordinance, but before recorded notice or commencement of improvements for which assessment is made.

Adverse claim of vendor's lien.

Adverse claim or equitable lien.

Ambiguous covenants or restrictions in ancient documents/

Misinterpretation of wills, deeds and other instruments.

Discovery of will of supposed intestate individual, after probate.

Discovery of later will after probate of first will.

Erroneous or inadequate legal descriptions.

Deed to land without a right of access to a public street or road.

Deed to land with legal access subject to undisclosed by recorded conditions or restrictions.

Right of access wiped out by foreclosure on neighboring land.

Patent defects in recorded instruments (for example, failure to attach notaries acknowledgement or a legal description). Defective acknowledgment due to lack of authority of notary (acknowledgment taken before commission or after expiration of commission).

Deed not properly recorded (wrong country, missing pages or other contents, or without required payment).

Deed from grantor who is claimed to have acquired title through fraud upon creditors of a prior owner.

AND extended coverage may be requested to protect against such additional defects as:

Deed to a purchaser from one who has previously sold or leased the same land to a third party under an unrecorded contract, where the third party is in possession of the premises.

Claimed prescriptive rights, not of record and not disclosed by survey.

Physical location of easement (underground pipe or sewer line) which does not conform with easement of record.

Deed to land with improvements encroaching upon land of another.

Incorrect survey (misstating location, dimensions, area, easements or improvements upon land).

"Mechanics lien" claims (securing payment of contractors and material suppliers for improvements) which may attach without recorded notice.

Federal estate or state inheritance tax liens (may attach without recorded notice).

Preexisting violation of subdivision mapping laws.

Preexisting violation of zoning ordinances.

Preexisting violation of conditions,



While a lot of these problems or potential problems can be resolved, some can cause owners serious financial loss if not adequately protected.

The closing attorney makes every effort to uncover potential problems, but when their efforts fail for whatever reason, the owner can suffer.

Owners Title Insurance, while not a "catch all", can save the owner thousands of dollars. If you have any questions, consult your attorney.

Forged notarization of witness

## **Home Protection Plan**

As an additional benefit, some sellers provide a Home Warranty (Protection) Plan for the buyer. This coverage is good for one year on selected items:

- Central Heating System
- Central Air Conditioning System
- Interior Plumbing
- Built-in Appliances
- Optional Swimming Pool/Spa Coverage

If the home you choose does not have a Home Protection Plan, you may acquire the coverage yourself.

#### **Keller Williams Realty Professionals**

has several such plans to choose from.





# CONTRACT NEGOTIATIONS

When an offer is received, the listing REALTOR® will be notified by telephone, in person or by FAX by the Selling REALTOR®. Contracts should be negotiated in person but sometimes necessity requires negotiations by phone or via FAX. Sellers and Buyers SHOULD READ ALL CONTRACTS BEFORE SIGNING. All Agreements MUST be in writing!

Associates will call their Buyer and/or Seller to set up an appointment to present the contract in person whenever it is feasible. If the property is officially recorded or to be recorded with more than one owner indicated, ALL parties must sign the purchase agreement. In reviewing contracts, remember, neither good or bad economic times last. In bad economic times, offers to purchase routinely come in "low" whereas in good economic times, offers are closer to the asking price. DO NOT BE OFFENDED IF A SELLER REJECTS WHAT THE SELLER CONSIDERES A VERY LOW OFFER. There are four responses that can be made on an Agreement (Offer) to purchase:

- a. **ACCEPTANCE.** Unconditional, congratulations, you bought your home.
- b. **REJECTION.** Unconditional, unfortunately, you are still looking for your next home.
- c. **COUNTER OFFER.** This occurs when some but not all terms are acceptable, you may wish to amend the offer to reflect terms more acceptable to you.
- d. **NO ACTION.** If no action is taken on a contract on or before the specified time for expiration, it is considered as having been REJECTED, even though it may contain no signatures.

**IMPORTANT NOTE:** Whenever ANY change is made on a contract, that contract as originally written no longer exists and the contract as amended is now an "offer to sell" to the Buyer from the Seller. Once a change is made, no matter how slight, the Buyer has absolutely no obligation or responsibility regarding the original contract but it still should be either accepted, countered or rejected.

# *"We really want the property, but . . . "* **PREDICATED OFFERS**

Oftentimes Buyers must sell a property in order to obtain sufficient cash to purchase property. This may also apply to you in purchasing your next home. While predicated offers may require the selling of another property, they may also occur when "something" must happen before the actual sale can be consummated.

When this situation occurs, Buyers may submit an Agreement to Purchase with an "open" or "closed" predication clause. This simply means they agree to purchase a home at some future date BUT ONLY when their present home sells or some other event takes place like liquidating bonds; insurance settlement, cashing in an IRA, etc.

An "Open" predication means a home will continue to be shown and marketed. In the event a subsequent offer is received, the original Buyer will be notified verbally and in writing and be asked to either remove the predication and proceed with the sale or to cancel the original purchase agreement, thus permitting the seller to sell the home to the second Buyer. Most predicated purchase agreements contain a 48 or 72 hour notification procedure meaning that the Buyer has 48 or 72 hours in which to remove the predication or cancel the agreement. These are commonplace.

A "Closed" predication means that a seller will to take their home off the market and agree not to consider any subsequent offers except in a "back-up" situation. Closed predication offers are rare.

A predicated offer means you are not truly free to make an offer on another home unless you can obtain a release from the existing predicated offer; otherwise, you could be responsible for buying more than one property.

Buyers who have only a few days in which to make a buying decision oftentimes do not have sufficient time to wait the required number of days/hours for an answer on a home that has an active predication in place and therefore may choose not to look at homes with predications pending.



#### **MULTIPLE OFFERS**

Multiple offers present unusual problems.

A multiple offer situation occurs when more than one offer is received at the same time on a property. This does happen especially in a "booming" market. It becomes very confusing when one of the offers is submitted by your agent serving as a disclosed dual agent on a home also listed by your agent.

When multiple offers are received, the listing associate will present them to sellers in the same order that they were received. To avoid any conflict of interest your agent will NOT submit an offer to purchase the same home on behalf of another buyer that agent may also be working for. In such a case the second buyer will normally be given to another agent to work.

The important thing to remember that an Agreement to Purchase is a legal and binding agreement and you should never have more than one Agreement being worked at any one time.

With the specific permission of sellers, listing associates will notify all submitting agents that they are in a multiple contract situation. This action will enable all associates to contact the prospective purchasers such as you in order that they can make decision based on all facts and review their position as they deem appropriate. In multiple offer situations, a prudent selling associate will immediately contact their prospective Buyer and suggest that they submit their final and best offer, otherwise their offer may not even gain consideration.

In Louisiana, Agreements to Purchase, once signed by the Buyer, are "binding and irrevocable" meaning they must either be accepted, countered or rejected. In the case of multiple offers, Agreements to Purchase MAY be modified to make a buyer's Agreement more acceptable to a seller to enhance the buyer's position.



# Escrow Deposit Disputes!

On occasion, a buyer will submit a contract that is accepted by a seller and then for whatever reason, the buyer chooses to NOT purchase the home. This can occur during the due diligence inspection periods or later. It can occur before loan approval or after. It can literally occur at any time right up until the actual closing. When this does occur, what happens to the escrow deposit check?

In January 2000, the rules and regulations governing escrow deposits were amended to provide brokers with more authority and options to settle disputes.

- Chapter 29, Section 2901, A.2 allows the disbursement of disputed escrow deposit funds based upon a reasonable interpretation of the contract by the broker who holds the funds.
- Chapter 29, Section 2901, A.3 allows the broker holding the funds to initiate a concursus proceeding thereby placing the funds into the registry of the court.

Based on testimony provided in disputes heard by the Commission, there appears to be a misconception concerning the costs associated with placing the funds into the registry of the court. Brokers should be aware that there are no out -of-pocket fees or related expenses associated with filing a concursus petition. All court costs are deducted from the deposit funds.

The real estate commission no longer will consider a deposit dispute. As such, the Broker that holds the deposit will most likely place the disputed deposit in the court in the Parish where the property is located. It is then the responsibility of the parties to the dispute to argue their position in court. All parties should understand that all court costs will be deducted from the deposit before the balance of the deposit is disbursed by the Broker.

All parties are reminded that there are provisions in most Purchase Agreements that define under what circumstances an Escrow Deposit may be returned or forfeited. If you have any questions, please consult your attorney.

# Who Pays The Commission?

#### The Seller Does!

The Seller has generally signed a listing agreement with a real estate associate specifying a certain fee to be paid, and many times it has provisions for splitting that fee with the agent who sells the property, regardless of buyer agency.

#### The Buyer Does!

The Buyer may chose to pay the real estate associate as set out in a written agreement. If this is the case, it would be in-appropriate for the buyer's agent to accept any portion of the fee paid by the seller unless specifically indicated in the written agreement.

#### Each Party Pays Their Agent

Each party pays their real estate associate as specified in their written agreements. A Seller may agree to pay a Buyer's Agent but not in the amount agreed to between Buyer and Agent. In this case the Seller may pay part of the commission due and the Buyer will pay the balance.

# **Mutual Agreement**

#### If I Will:

- © Make my best effort to find the home to meet your needs,
- © Commit my time, car, computer, experience, and staff to find exactly what you want,
- © Incur all my car, phone and administrative expenses,
- © Continue the home search until you either find a home or tell me to stop looking.

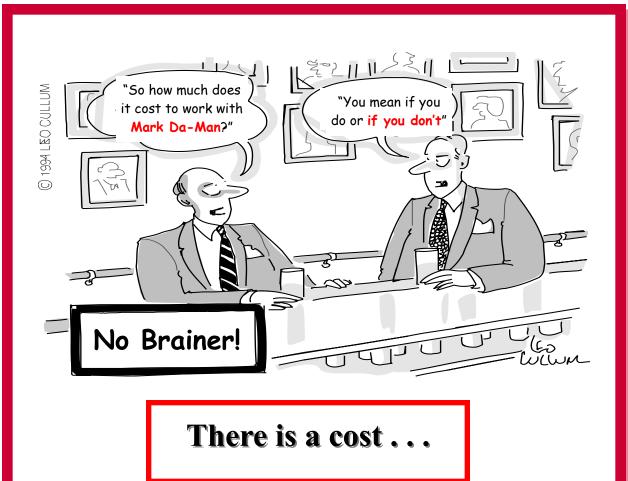
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Mark "Da-Man" Dernovsek

#### Will You:

- $\otimes$  Let me know if your plans change?
- © Tell me if you want to look at a home listed with another broker, builder, or for sale by owner?
- © Tell me what you like/dislike about the homes we look at?
- $\otimes$  Tell me if you feel the need to talk to another agent?
- © Work with me until we find you the right home?

Our Happy Buyers



Regardless of which real estate company or real estate associate you ultimately select, there is a cost!

If you go to the finest restaurant, or seek medical assistance from the finest heart surgeon, or if you want to drive a Mercedes Benz, you must pay the premium price.

However, if you select **Keller Williams Realty Professionals** and me, you are getting two of the industry's best and not paying any more for the service than if you selected another company or another associate regardless of experience or credentials.

# Kids Move Too!

Moving is well known to be a traumatic experience. Families leave memories, friends, relations and activities. And while most of these can be replaced by new friends, memories, and activities, the move becomes no less traumatic.

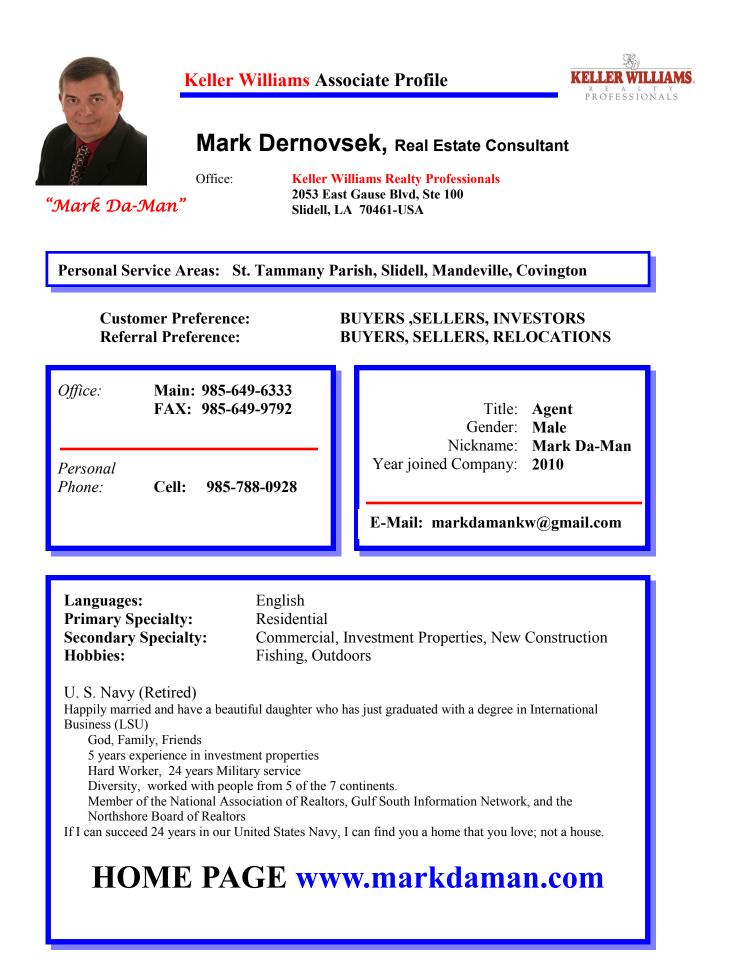
Oftentimes the concerns and fears of the children are overlooked when families move to a new location. A move is especially hard on teenagers or youngsters who have a passion for a sporting activity, social club involvement or who participates in one of the various art forms. Teenagers and young adults are asked to leave their budding romances, their high school and college activities and to some extent abandon their personal dreams and ambitions.

It is paramount to include the children in the initial planning stage of a family relocation. Get them involved in the decision process. Ask your real estate associate to obtain information for the children that may ease their fears.

When searching for that perfect home, it is wise to involve the young adults of the family. Infants and very young children can sometimes hinder your search for a home because they quickly grow impatient and you may want to find a sitter during house hunting visits.

Remember, kids move too and they oftentimes require very special attention during this traumatic time of their lives.





# REAL ESTATE FORMS THAT YOU NEED TO KNOW ABOUT

This could be the most important package you will receive from me. It contains copies of forms that are utilized in the buying process. I have found that customers feel more at ease when they have read the forms prior to putting them into the system as an offer or an acceptance. Please take a few minutes to review the form and feel free to call me with your questions or consult with a real estate attorney.

Of particular importance is the "Exclusive right To Locate Property" which is a Buyer-Broker Agreement. It is not necessary to complete this form, however, I feel very strongly that such an agreement is in the best interest of most buyers of real estate.





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