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Northwest Life: Sunday, October 06, 2002

Home Forum / Elizabeth Rhodes

Home still unsold, so what to do?

Q: Help! My husband's job transfer means we must sell the Eastside house we purchased new in December 2000 for \$535,000. We put in \$30,000 in upgrades, priced the house at \$525,000, but after four months on the market it still hasn't sold — yet new, more expensive homes nearby continue to sell. What should we do?

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A: "Unfortunately, selling a home involves market fluctuations, and in your particular price range we've experienced a softening on the Eastside," says Michael Smith, owner of Prudential Michael Smith Realtors. However it could be worse. He says there's still "moderate demand" for homes in the \$500,000 ballpark. "Over \$700,000, the market is even softer."

As you're finding, there are pros and cons to purchasing in a new housing development. The pro is you get a brand-new house you can customize as it's being built. The con is that many other buyers also want new homes, so they'll pass yours up. Plus, in a softening market, builders often drop their prices. Smith says this is happening on the Eastside in the \$500,000-\$700,000 price range. So the buyer who passes up your house to pay more for another may be lured by its discounted price.

So how do you sell yours? Think patience. From now into January is real estate's slow season (although the current record low mortgage-interest rates may affect that this year). Review your marketing plan to make sure it trumpets the expensive improvements that make your home a better deal than a new one, Smith advises.

The house should also be very accessible to buyers and in "absolutely mint-show condition," he says. That includes the yard.

Finally, have your agent review recent sales in your area. If your price isn't competitive with comparable homes, a price reduction is in order.

Q: I own a waterfront lot on a small lake. I now need income, so I would like to do an exchange for a rental condo. How do I find a builder/developer who's willing to exchange?

A: You want to exchange one investment property for another, which will allow you to delay paying the capital-gains tax you'd potentially incur if you simply sold the waterfront lot. This type of transaction is called a **1031** exchange. The Internal Revenue Code, which governs these transactions, doesn't require a

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straight-up simultaneous exchange, so it's not necessary for you to find another owner willing to swap, says attorney Cris Anderson, the northwest division manager of Asset Preservation, Inc. Instead, you can do what's called a delayed exchange. Here's how it works:

First, you sell your property to anyone you wish. Then you have 180 days to purchase a "like-kind" property. "When the tax code says 'like kind' it means any other investment property or property used in a trade or business," Anderson says. "It can be bare land or a rental such as a duplex or triplex." What it cannot be is a property you plan on immediately living in, either as a principal or second residence.

Now for the fine print. Under **1031** exchange rules, you cannot lay a hand on the money from the sale of your lot, so you must involve an outside party. Many firms specialize in **1031** exchanges, and Anderson recommends you use one.

"There are many other requirements under the code regarding timing and identifying replacement property, so an expert should be consulted," he says. Choose one carefully; Anderson says exchange firms are totally unregulated except in Nevada.

You can continue to do **1031** exchanges, delaying the tax man, essentially forever, Anderson says. Indeed, if you own your rental property when you die and it passes to your heirs, they won't have to pay capital gains on it.

Q: My daughter, a student at Washington State University, leased an apartment in Pullman that was advertised as having the option to connect to high-speed Internet, which she needs for her schoolwork. However once she moved in she discovered it doesn't have that capability, although the owner says he's working on it. Can she break her lease over this?

A: Here's how Pullman attorney Michael J. Pettit, of Wiley & Pettit, says he'd handle a situation like yours. First, he'd look at the lease. Does it reference the Internet connection? If it does, your daughter can ask to be released from it because the landlord isn't honoring his own written contract. If it doesn't (which Pettit suspects is probably the case) then your daughter probably can't break it. But she may be able to bring some heat on the landlord. Here's how.

First, she should get a copy of the ad. Then she should send a copy of that to the landlord along with a written note stating he promised her this Internet service, and reiterating her need for it now. Close by saying, "Please drop me a line telling me when it will be ready."

"The object would be to get the landlord to reply in writing," says Pettit. Written confirmation of an installation deadline possibly could be enforceable in court, he says.

Should the landlord either not respond or not follow through with high-speed, then Pettit says your daughter should investigate what the monthly fee would be to have it. She should then take her lease, the ad, the fee information and her landlord to Small Claims Court where she could argue that her rent should be reduced by the amount of the fee.

Home Forum answers readers' real-estate questions. Send questions to Home Forum, Seattle Times, P.O. Box 1845, Seattle, WA 98111, or call 206-464-8510 to leave a question on a recorded line. The e-mail address is

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