

Smart homes could be spying on prospective buyers

By [Andrea Riquier](#)

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As home security becomes more prevalent, its use by home sellers to record touring buyers raises questions



A real estate agent views a home for sale in the San Francisco area.

Jill Comfort, a Phoenix-area Realtor, had a good feeling about the cream-colored stucco house she planned to show her client, a young man relocating to the city from California. It was in his budget, in the right location and had a huge pool and back yard that would allow him to entertain.

It also had multiple surveillance cameras that recorded everything that went on as prospective buyers walked through.

“When we were walking out of the hallway we could see they were following us,” Comfort said. Both agent and client felt “awkward,” she added.

“I can understand where some sellers are leery of strangers walking through their house, but that’s what happens when you

put your house on the market,” Comfort said. Her client, she said, was “creeped out.”

As homes become smarter, real estate agents and home buyers are increasingly finding there’s an extra set of eyes and ears on them as they tour properties for sale. In a 21st-century version of the “nanny cam,” Realtors describe everything from old-fashioned security cameras to newer contraptions like Nest thermostats [GOOGL, -1.66%](#) tracking their conversations and actions. The rise of these wired home sellers is raising fresh concerns about privacy, courtesy and legality in a transaction that’s already fraught with emotion and potentially full of pitfalls.

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A Nest thermostat can be used to listen in on would-be buyers.

The trend has spurred what Joan Rogers, a broker with Windermere Realty Trust in Portland, Ore., calls a “Hey, be aware of this” conversation among her colleagues and counterparts. Rogers says the discussion started in her area about three years ago, “about the same time that integrated home media and security became a thing, with devices that could record your home and report back to you on your smartphone. The conversation started happening that it would be wise to watch your mouth because you just never know what device might be recording.”

Many agents told MarketWatch that it’s not just that having to “watch your mouth” was uncomfortable — it’s more that such an uncomfortable breach of etiquette occurs without any real payoff for the deal.

Andie DeFelice is a broker with Savannah-based Exclusive Buyer's Realty, Inc., and the president of the National Association of Exclusive Buyer Agents. Last fall, DeFelice took a client to see a home that seemed perfect for his specific needs: it had a detached combination two-car garage and studio with living room, kitchen and full bath — perfect for his grown son.

Shortly after the deal settled and her client had moved in, his new next-door neighbor introduced himself with some unsettling news, saying, as DeFelice put it, "I just want you to know the guy who sold the house knew he had a buyer the minute you walked through." The neighbor wasn't making it up: he was able to repeat the conversation client and broker had when they toured the house.

"It's one of those things where it is the person's home, they have the right to do whatever — but you feel a little violated," DeFelice said.

Because the house was one of a very few with the unique feature that the buyer wanted, she added, the seller was right — her client was primed to buy the moment he stepped in the door. And he doesn't feel that he tipped his hand unknowingly to the camera and then overpaid — although that's a real risk for other buyers caught commenting during tours. What does rankle DeFelice about the encounter, she said, is that the previous owner referred to him as "the older guy" with a "younger" son when describing the transaction to his neighbor.

Rogers had a similar experience. She was selling the home of a couple who used a Ring Door Bell, now held by Amazon [AMZN, -0.36%](#), even when their home was not on the market. Although they had signs about ongoing recording clearly posted — as is the law in Oregon — one buyer and her broker lingered on the porch, discussing the property.

Hearing the way the buyers talked about their property was "unsettling" for the sellers, Rogers said. Even though they were the ones capturing a conversation carried on by someone else, "they felt violated with the people standing on the porch talking about the house."

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Ilyse Glink, [author of 100 Questions Every First-Time Home Buyer Should Ask](#), thinks the rise of the recorders isn't just a natural evolution of technology, but also a logical response by sellers "desperate" for feedback that would once have been provided by their broker. Now, with so many sellers's brokers leaving keys in lockboxes for buyers's brokers to retrieve — as was the case with Rogers's clients, "sellers have rightly been feeling pressured by lower levels of service," Glink said.

Yet Glink also sees recording devices in a broader context of new technologies that benefit both seller and buyer. For instance, Google Maps offers buyers the chance to see the perimeter of the home, what it's like to drive along the street and even a peek at surrounding properties — features that sellers will never photograph for formal advertising, she pointed out.

It's worth noting that this is not just a suburban phenomenon. Gea Elika, who runs an exclusive buyer's agency called Elika Real Estate in New York, had a client walk out of a high-end Manhattan showing when she saw cameras moving along with her motions — even as the listing agent hovered nearby. "Even I felt uncomfortable," Elika said.

Elika and other agents interviewed by MarketWatch think technology is only going to become more prevalent in real estate, and many would still like clearer policies and guidelines on how to handle situations now.

The National Association of Realtors has offered a best practices tutorial on the subject, along with a listing of what's allowed in each state. For now, NAR suggests brokers consider hanging a sign in the home or including a note on the listing form that alerts visiting brokers that there is a surveillance device.

More formal, organization-wide policy that would help brokers guide their clients can be set by any one of several Realtor committees at one of NAR's two annual meetings, the organization's general counsel, Katie Johnson, told MarketWatch. "If members are motivated it could happen quickly," Johnson said.

For Johnson and other lawyers, the rise of recording technology has prompted what she calls emerging unresolved issues, including whether the devices are included with the property in a sale. And with that, what happens with the historical data they've captured?

In many situations, however, such questions are academic compared to the demands of the real-life marketplace, which in most areas of the country is still very firmly in the seller's favor.

But based on her experience, Phoenix-based agent Comfort has decided she's going to explicitly ask each seller she represents if they have surveillance equipment — yet another conversation that feels “awkward,” she conceded — and she'll make sure she's addressing that issue as she shows properties.

Certainly as with most real-estate transactions, each buyer (and seller) are unique. Despite being “creeped out,” Comfort's young California transplant decided his desire for the home in which he was recorded outweighed the ick factor and he made an offer — ultimately turned down in favor of a more generous one.

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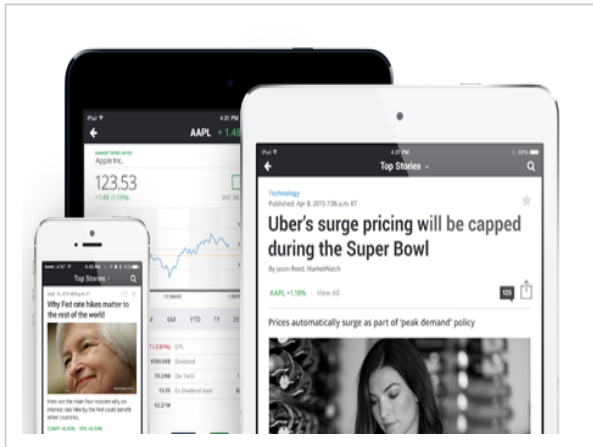
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