THE REAL DEAL

REBNY's portal plan stirs revolt

What's at stake in the battle to make property listings public

By Jen Benepe

The city's largest and most prestigious real estate group plans to make its thousands of listings accessible to the public, a move the masses may applaud but which some members of the trade association have responded to with mounting anger, accusations of mismanagement and talk of a lawsuit from aggrieved brokers who worry that when they lose exclusive access to proprietary data, they will go out of business.

Steven Spinola, president of the Real Estate Board of New York, announced Nov. 2 that the organization would embark on an aggressive six-month plan to open the group's 12,000 to 15,000 daily member listings, gathered as the REBNY Listings service, or RLS, through a publicly accessible Internet portal.

The decision, which some members of the trade association decry as a devastating shift that could disproportionately hurt smaller brokerages, has complex roots, and even more complex implications. Opening up REBNY's listings could put that group's reach ahead of prominent online real estate advertisers such as NYTimes.com and Craigslist, but critics of the plan say larger brokerages would benefit far more than smaller, localized operations.

Reaction to the plan to move what now is a closely guarded -- and immensely valuable -- trove of market information into the public eye split sharply between major citywide real estate firms and smaller operations referred to as independent firms by REBNY.

While open listings are common in most other real estate markets, New York's is unique. The trade organization's 317-member brokers now share residential listings among themselves through the RLS, which gives access to exclusive listings within three days of receiving them. About 40 firms also belong to the Manhattan Multiple Listings Service, which shares listings in the same manner as other MLS groups nationwide.

Spinola says the plan would be an extension of the RLS that would help maximize exposure for properties.

That line of reasoning wound up putting the leadership of the powerful trade group on the defensive for the rest of a long November.

The move is a "natural next step" in the group's evolution, Spinola said. "We wanted to provide an additional option to our brokers to get their listings to the public," he said, adding that opening up member firms' listings was a "great value of information to the consumer." The database would cover Manhattan properties and parts of Brooklyn, and would expand to other boroughs.

Proponents of the publicly accessible database said the now-private information it contains is a huge asset waiting to be exploited, and called it the next logical step into the future, in much the same way Google or Yahoo have capitalized on the breadth of data available on the Internet.

It's a radical notion for a group that has largely functioned out of the public eye, but not so far-fetched to its leadership, which has seen the advertising market for New York real estate transformed by the aggressive intrusion of online listings, which are now dominated by the New York Times' online operations. As Internet options supplanted print advertising as the dominant medium for real estate listings, REBNY's largest member firms, such as Corcoran, Prudential Douglas Elliman and Citi Habitats, stepped up their presence on the Web.

Backers of the plan to create what amounts to a gigantic version of a multiple listing service say the Internet could serve as a marshaling point for the thousands of listings around the city, presenting them in an improved, standardized format that buyers and renters find easy to use.

Negative reactions

The announcement was met with a cascade of vocal objections, requests for meetings, a flurry of negative e-mails to the trade group and the rise of a faction made up of brokers who oppose the move. Some have even joined forces in a series of meetings organized by dissenting firms.

"A lot of smaller firms think they will go out of business and that's what this is about," remarked Klara Madlin, who owns her own firm, which bears her name. "The other reason people were so angry is that nobody was consulted, and nobody knows exactly what this portal is going to be," she added.

Carol Levy, president of Carol E. Levy Real Estate, said that up to now she had been very happy with how the RLS had helped her business. But after attending a REBNY meeting where the plan was unveiled, she found her reaction was similar to many other representatives of the 150 or so firms who attended: "It was a meeting full of anger and anxiety in the way we were treated in such a dictatorial way," she said.

While smaller and independent firms have been the most vocal opponents, some REBNY members who asked not to be identified said top management at some larger firms also had misgivings. A mountain of negative e-mails circulated among brokers, all of whom said they stand to lose the most if such a system is implemented. Most were upset -- even outraged -- they were not consulted or educated about the process that will open up REBNY's exclusive listings to the public.

The $3,500 cost for smaller members was one of the major points of contention. Larger firms -- who often have hundreds more agents than smaller firms -- will pay only double that amount, $7,000, to be part of the REBNY service. Many critics said there were duplicate costs, since a number of independent firms subscribe to the Manhattan MLS system and already pay for the regular exchange of information and programming costs, said Madlin.

Stephen Love, executive vice president and managing director of Ardor NY, a medium-sized independent firm, attended the Interfirm forum meeting when the public portal was introduced.

"They announced with great fanfare this wonderful portal, and [said], 'Oh, by the way, it is $7,000 each and there is no opt in and no opt out,'" he said.

Members also complained of being blocked from essential meetings where the system was discussed.

Chris Shiamili, CEO of Ardor Realty, later organized a meeting for about 50 medium-sized and small firms, all of whom signed a petition asking that REBNY refrain from taking any further steps without their involvement. The petition requested that any publicly accessible system could be approved only by a final vote of all members.

Shiamili said he expected to have 100 signatures by early December.

Spinola said the costs of the system and how they would be assigned was under reconsideration, and he noted that all objections, "from the reasonable to the ridiculous," would be addressed. He said the organization was committed to the project.

Fallout and factionalism

Critics want to find out which firms were the leading architects of the plan, and answers are scarce. Dissenters say REBNY's residential board of governors appears to be the only source of support for the measure. The board of governors is made up of the largest firms, including Corcoran, Douglas Elliman and Brown Harris Stevens.

The dissection of the plan raises questions among members about how REBNY is run, and critics are now questioning its bylaws and the extent of the trade group's power to enforce its decisions.

But many critics also admitted they knew little about the inner workings of the organization and how its decisions are supposed to be made or enforced.

Countering a self-made Goliath

The ownership of the planned system is another concern, one that may seem secondary amid the tumult, but the question has a historical precedent that may be directly responsible for the current upheaval.

David Michonski, chairman and CEO of Coldwell Banker Hunt Kennedy and a cofounder of the Manhattan MLS, said that about seven years ago REBNY started work on a similar system. Member brokers paid for the software architecture work, but it was never completed, and they lost their investment, he said.

Michonski said the programmer who developed the system sold the software to the New York Times, giving the newspaper, which was the dominant print advertising outlet for New York real estate, a similar market-leading position online. Spinola disputed this point. Real estate advertising makes up a sizable percentage of the Times' classified ad revenues, which were year-to-date $8.1 million through the end of October. Real estate ad revenues climbed 12 percent for that time period from last year.

The Times' dominance on the Web has frustrated many brokers, and some hope that the REBNY service would serve as an effective competitor through the planned public portal. That could be realized if the trade group, which now counts nearly all Manhattan brokers in its ranks (as well as an increasing share of Brooklyn brokers), had a partnership with a major Internet operation such as Google, Yahoo or AOL that drove huge amounts of traffic to a REBNY site.

Smaller brokerages resent the Times because it only discounts its rates for larger brokers purchasing more advertising.

"I pray in my heart of hearts that REBNY is doing this to put New York

Times classified out of business," said one brokerage executive who asked not to be identified.

Spinola said his association isn't trying to put the Times out of the real estate business, but said he hoped the REBNY portal "will be of significant interest with any Web page interested in being associated with the Manhattan, Brooklyn or Queens market."

"An entity that wants to say that they have the predominance of listings for New York City, I can't imagine them not wanting to participate," he added.

The Times refused several requests for an interview.

An unwelcome surprise

The suddenness of REBNY's announcement, made without widespread debate, led some members to speculate that the listings service may go public because of government scrutiny.

The New York Attorney General's Office has investigated REBNY's listing practices, and the group also faces scrutiny over alleged commission price-fixing.

Spinola said the plan was not connected to the attorney general's inquiries, nor to an antitrust lawsuit in which Klickads, doing business as BrokersNYC, alleged that REBNY illegally withheld broker listings.

Brad Maione, a spokesman for the attorney general's office, said they could not comment on the investigation.

The state action echoes a federal investigation into similar business practices by the National Association of Realtors, which has not yet been resolved.

REBNY members said if legal issues were part of the decision to develop the public portal, they might provide a compelling reason to accept it.

As the month wore on, brokers admitted that if they knew more about the plan they might not object to it. But persistent critics said the new system will hurt small firms while bolstering bigger brokers like Corcoran, Douglas Elliman, Halstead and Brown Harris Stevens, which own more than 80 percent of the listings. Levy projected that her clients in buyer-broker deals would default to the listing broker "to shave off a percentage of the fee."

Levy, who specializes in $8-to $10-million properties, said she makes about 60 deals a year, 50 percent of which are buyer-broker deals, using the exclusive property listings available on RLS. She predicted that it would cause the demise of small brokers in much the same way many travel agents went out of business when American Airlines took over airline reservation systems.

Brokers also expressed the fear that if they chose not to participate in the public plan, they would no longer be able to use the private RLS system. Some said they might sue REBNY or leave the group in disgust.

A race to the finish

News of the REBNY plan has set off a race to the finish among competing information providers.

Michonski said he's surprised REBNY is bothering to create a public portal, because New York already has one. In addition to its relationships with AOL and MSN, the Manhattan Association of Realtors' MLS of Manhattan is linked to the nationwide National Association of Realtors' database of 1.3 million listings, giving the 10,000-listing local database an extensive reach on the Internet.

It would take a long time for REBNY to build up the same search optimization and cross-company relationships with the big providers, said Michonski.

Wolk pointed out that the MLS of Manhattan offers significantly lower costs to real estate brokers, which could prove to be a major competitive advantage.

Some questioned whether the underlying information on REBNY's RLS was technologically robust enough to form the basis for a competitive public portal. "Our own proprietary database system is light years ahead of the Real Plus platform," said Love of Ardor NY.

Damage control

Spinola recently asked that the medium-sized and smaller firms elect three representatives to the technology task force that is working on the portal plans and reviewing requests for proposals that have been sent to six database designers.

According to Spinola, the representatives are Reba Miller, owner of RPMiller & Associates, Inc.; John N. Wollberg, executive vice president of ATCO Residential Group; and Michele Peters, chief executive officer of Weichert Realtors -- Peters Associates.

But soon after their appointment, the task force members were already being privately derided by broker critics, one of whom described them as "lambs" being "used" to push the organization's point of view.

In a Nov. 17 memo to the independent firms, Spinola said he was disappointed that members reacted so starkly to the decision. "The polarizing rhetoric that we have seen from a few of our members is unfortunate," he wrote. "The elected residential leadership of the organization is charged to act in the best interests of our industry," he added.

But many members said they felt so deeply wounded by the event that they wondered if they could ever trust the organization or Spinola again.

"Why should we pay to get on the RLS when we are going to be dominated by the big firms?" asked one broker. "Let's form our own listing service, or do whatever it is we decide to do, and we could even tap into the free public portal."