

67 FISH POND LANE



Confidential Instructions for Sellers

You and a friend have been living together for ten years, having first met in law school in the Boston, Massachusetts area. Following graduation you both worked, and subsequently made partner, at small specialty law firms in Boston. One of you specialized in patent and copyright law, while the other's practice focused on the legal needs of small, high-tech companies and venture capital firms. While you originally planned to make your careers in Boston, last year you received an unbeatable offer from a firm in Silicon Valley, California. Six months ago you moved out to Palo Alto, into a house paid for by a consortium of Japanese and American venture capitalists, and you find your situation better than you imagined possible. You will never come back to Boston.

Five years ago, after paying off most of your student loan debts, you and your friend purchased the now-vacant house at 67 Fish Pond Lane (in Cambridge, Massachusetts, just across the river from Boston) for \$190,000. You feel it is unique. Although not of colonial vintage, it is elderly (built, as were all the surrounding houses, in the late 1920s or early 1930s), and has a great deal of charm. It has stucco walls, five bedrooms, a wood-paneled library, a living room, a dining room, a modern kitchen, a greenhouse, and an aviary.

The aviary housed your breeding pair of Moluccan cockatoos. These birds, which are native to the Moluccan Islands, are the largest and most beautiful of the cockatoos: chalk white feathers tinged with rose, and a salmon-colored crest. You have always been bird fanciers and were offered the pair of domestically bred birds two years ago. At the time it was unclear as to whether they would become a breeding pair. Singly, each bird would now be worth about \$4,000. As a breeding pair they are worth \$15,000 to \$16,000; domestically bred baby Moluccans fetch \$5,000 to \$7,000 each. To house these birds and encourage them to breed, you converted a small alcove off the living room into an aviary at 67 Fish Pond Lane. You installed a tile floor with a drain, humidity control, a mechanism that continuously supplies drinking water, and special dual-paned polarized glass with internal slatted blinds that automatically regulate the amount of sunlight entering the area. Because you did a lot of the work yourselves, the aviary cost you a total of only \$4,000. (You saved \$2,000.)

The house (including the aviary) has a comprehensive burglar and fire alarm system, which you installed five years ago at a cost of \$6,000. It also has all new electrical and plumbing systems (which are two years old and cost you \$33,000). The house is heated with gas (the heater was in place and looked very new when you bought the house), but due to the fact that its stucco walls were apparently not insulated during construction, it is expensive to heat. Last winter it cost you roughly \$1,900 to keep warm (68° F). There is a small, one and one-half car garage (which needs its stucco patched and its leaking roof repaired), and a concrete driveway that has been rendered somewhat uneven by years of frost and thaw. The only drawback is that the house is only one house in from Fish Pond Parkway, a major four-lane artery that brings traffic from the southwestern suburbs into Boston. Although you have long

ceased to notice the hum of traffic, the noise factor has always influenced the price of houses in the neighborhood.

You have consulted a friend who is a private realtor in Cambridge (much of the high-quality real estate in Cambridge changes hands without ever coming onto the public real estate market), and she feels you could well get as much as \$450,000 for the house.

The house at 71 Fish Pond Lane (one house farther in from the Parkway) sold two months ago for \$435,000. Although it is slightly larger (about 20 percent more square feet than your house), made of brick, and is shielded from Parkway noise by trees and the other two houses, like many older houses in Cambridge its electrical and heating systems need a complete overhaul. The previous owner, Mr. Miller (a former law professor who now works primarily as a game show host on "Hollywood Cubes"), decided to move into a condominium on the Boston waterfront rather than suffer through the necessary renovations. The person who purchased 71 Fish Pond Lane, oddly enough, has never moved in. You heard from a neighbor (when you stopped by to check on your house yesterday) that the new owner is rumored to be a member of the Unification Church who may turn the house over to the Church.

Three years ago, 63 Fish Pond Lane, located next door and directly on the Parkway, sold for \$225,000. It is stucco, almost identical in size to number 67 (one fewer bedroom), and has a driveway but no garage. Since the house sold, real estate prices have risen 40 percent on the average, but in the current economy the real estate market, always somewhat volatile in Cambridge, has softened considerably, and trading is slow.

When you first moved to Palo Alto, you planned to keep the house at 67 Fish Pond Lane as an investment. You bought it five years ago, and there is a \$120,000 mortgage. In addition to the consistent pattern of real estate appreciation in this part of Cambridge (see the attached letter from your broker containing selling prices of Cambridge homes during the past six years, Appendix A), you also felt that the completion next year of the new Mystic Valley commuter rail station (two miles farther out, to the southwest) would, to some unknown degree, reduce the commuter traffic into Boston on the Parkway, making the area quieter and more attractive.

Several weeks ago you were invited to participate in a deal in California which appeals to you greatly: two engineers at Rudnick Computers are breaking off to start a new hardware manufacturing company. Two of the venture capitalists involved have offered you a piece of the new enterprise in exchange for the legal work and a capital contribution of \$150,000. Given what you know of the firm's potential, it is a good bet to make a great deal of money quickly. You would now like to move your money out of the Cambridge house and into the new venture. As the principals involved in putting the deal together have demanded that you decide within a week whether you will be able to participate or not, you are under a deadline.

You have had the house on the market with your real estate broker for three and one-half weeks, with no specific asking price, stating simply that you would take the "best offer." In Massachusetts, a broker receives from the seller a commission equal six percent of the purchase price, and usually a nominal down payment accompanies a contract for sale, followed by a closing within 30 to 60 days. You had two tentative inquiries (through your broker) within the first week, but neither one generated a bid. A different broker called you in California two weeks ago and offered you \$320,000 cash on the spot for an immediate sale,

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but you never followed up. Although you feel that \$320,000 was perhaps just the broker's "opening bid," you aren't certain that that broker would still be interested in the house.

You have looked into the possibility of an additional first mortgage, but it might not generate the \$270,000 you need to make the investment and cover the existing mortgage. A second mortgage might be possible, but not very attractive economically. In general, keeping the house is no longer desirable, because there is only so much you could get in rent, and you dread the hassles of being an absentee landlord for Cambridge property. You never know what will happen with rent control, for example.

Last week your broker called you in Palo Alto and told you about two young MBA students who appear to be seriously interested in buying the house. You don't know if they are familiar with the Cambridge residential real estate market, or whether they have been down to the Registry of Deeds to confirm the price of recent house sales or the price you paid for the property five years ago.

You figure that to buy into the new venture in California, you must clear enough from selling your Cambridge house to make the investment and to cover the existing mortgage, the broker's fee, and the 28 percent capital gains tax on any gain over your basis in the house. Of course, you could certainly use extra cash as well. A financial cushion would be good to have in case other investment opportunities arise.

As you are only here in the Boston area for a few days, you would like to meet with the two students and would like to close a deal quickly, if at all possible and desirable. Return trips to Cambridge are costly in terms of time and money, and you would like not to have to make another one. You asked your broker to set up a meeting.