How NAR's $418M settlement could impact Charlotte's housing market

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A $418 million settlement made last week by the National Association of Realtors to end lawsuits over broker commissions stands to bring change to Charlotte's residential real estate industry but won't have far-reaching implications, those in the local market say.

Canopy Realtor Association CEO Anne Marie DeCatsye said her concern is for local buyers who already struggle with finding money for a down payment and rely on nonconventional financing methods such as a Federal Housing Administration or Veterans Affairs loan to fund their home purchase. Commissions, which cannot be financed, for a buyer's agent must be fronted by the consumer if sellers opt not to offer compensation under the new rules.

"Now, they're going to have to come up with a way to pay their buyer agent or they're going to have to be unrepresented," DeCatsye said. "And the concern is this is a major investment and to go it unrepresented is really a risk."

The agreement, announced March 15, seeks to resolve a wave of class-action lawsuits that alleged a conspiracy between the NAR, multiple listing services and brokers to keep commissions high by prompting home sellers to pay buyer-broker commissions. At the heart of the lawsuits is the concept of the commission split, in which the seller's broker splits the commission with the buyer's broker.

In the days since the settlement was disclosed, NAR has reiterated it does not set commissions and those fees will continue to be negotiable. Some amount of compensation, even if it was zero, had to be disclosed as part of a home being listed on MLS.

The settlement puts into place a new rule that prohibits any offer of broker compensation on MLS. Negotiations over compensation will now happen offline.

NAR is also implementing a rule that requires Realtors enter into written agency agreements with buyers before an offer is made, something that has already been enforced across the Carolinas since the 1990s, DeCatsye said. Not all states required such agreements, though, and many are scrambling to have forms in order, she said.

The new rules are set to go into effect in mid-July. In recent months, predictions have been made that a broad "unbundling" of commissions could lead to lower commissions and fewer total agents.

David Hoffman, CEO of David Hoffman Realty, said in the short term he expects that about 10% to 15% of sellers will not want to pay for the buyer's agent, with 20% to 25% of buyers not wanting to cover the cost either. That may cause a slight dip in demand in late summer as "consumers test the new model," he said.

Ultimately, Hoffman said he believes the new rules will produce long-term benefits. Sellers will feel more in control over their bottom line, and buyers' agents will be required to articulate their value proposition quickly, he said.

"Sooner rather than later, it will become clear that the largest difference is merely that the buyer-agent commission cannot be disclosed on the MLS, and (the) agency needs to be clearly stated prior to showings; again; both positives for the industry and free market," Hoffman said. "It will end up moving residential real estate more to commercial where commissions are negotiable, (the) agency is clear on day one, etc."

Could NAR settlement cause other ripples in housing market?

While Hoffman said that most buyers' agents at his Charlotte firm already touch base with listing brokers before a showing, that initial phone call is now mandatory. He said the firm also will prioritize agency paperwork being filled out prior to showings.

Hoffman foresees the biggest impact from the changes to be a drop in agents, many of whom are part time, due to the higher standard that will need to be reached.

Matthew Paul Brown, managing partner and founder of Charlotte residential real estate firm Reside Realty, expects even less of an impact from the settlement. Brown said he doesn't anticipate a situation in which sellers and their listing brokerage won't offer compensation to a buyer's agent.

It won't affect how Brown's firm operates, nor should it the market as a whole, he said.

"I do not see this slowing down the market in the Carolinas," Brown said. "In fact, I have noticed the listing inventory in our local market increasing as we enter into the spring real estate market and buyers remain plentiful."

Another prediction DeCatsye doesn't see playing out from the settlement is lower home prices. That's due to the persistent inventory shortage in the Charlotte market.

"Supply and demand is going to say prices aren’t going to just go down all of the sudden just because we're changing the way this compensation works," she said. "It doesn’t really make sense to connect the two."

DeCatsye said it's important for Realtors right now to explain their range of services to clients.

"What I like to say is this is a great opportunity for the Realtors to take this news that’s out there and sit down and explain their value," she said. "Realtors are professionals who earn every bit of what they do."

NAR's proposed settlement must still be approved by a federal judge before it's final. The agreement would resolve all claims against NAR, its members and all state and local Realtor associations, multiple listing services and all brokerages with a NAR member as a principal that had a transaction volume of $2 billion or below in 2022.