

Canopy Realtor® Association/Canopy MLS media statement on proposed NAR Settlement

March 20, 2024

The media's portrayal of the proposed NAR settlement, announced Friday, March 15, 2024, which would put an end to the litigation of claims brought on behalf of home sellers nationwide related to broker commissions, has been cloudy at best.

While the proposed settlement is still subject to court approval and therefore not final, Canopy Realtor® Association and Canopy MLS have been proactively monitoring these court cases and planning for various outcomes for quite some time, one of which was the possibility that compensation through the MLS would ultimately be eliminated.

We now know that compensation on the MLS is going away and, per the terms of the proposed settlement, the change must be made by mid-summer. This means that no offers of compensation will be permitted on the MLS in any field, including agent remarks.

While the NAR settlement does require some significant changes to one of the tools agents have historically used - the MLS, it does not change the value the Realtor® brings to the real estate transaction. Likewise, the settlement does not change the fact that Realtors® will still be compensated for the services they provide and that compensation was, and continues to be, negotiable between agents and the consumers they serve.

Scare tactics, used by the media to cause widespread panic, have, in many instances worked. However, the sky is not falling, real estate agents will not disappear, and compensation is not the only reason the MLS exists. The MLS itself is a valuable tool that includes the largest, most comprehensive database of available homes. What a consumer views on the Internet is NOT the MLS but only a small subset of MLS data. Through the syndication services provided through the MLS, at the direction of the listing agent, sellers are able to receive maximum exposure and visibility for their home, giving consumers more choice. The MLS is not only a marketplace for fairness, offering the most accurate and timely data available, it also offers a robust portfolio of technology products, tools, and services available only to Realtors® -- all of which help Realtors® do a better job in representing their clients.

The proposed NAR settlement, in addition to the removal of compensation from the MLS, requires other changes. One such "change," which is **not new to our market area**, is the requirement that Realtors® enter into written agency agreements prior to the provision of ANY real estate services.

These agency agreements have already been a part of regular real estate practice in both NC and SC for nearly 20 years as required under NC and SC License law, for both listing agents and buyer agents. These agreements are comprehensive and clearly delineate a Realtor's® fiduciary duties to their client. In addition, these agreements outline some of the many services Realtors® provide and present a detailed explanation on how agents are compensated. Realtors® in NC and SC will continue to use these agency agreements as they have in the past. The consumer will continue to benefit from the Realtors® knowledge of these agreements and their expertise in negotiating and advocating for their client throughout the real estate transaction.

Conversations between the Realtor® and the consumer may change but the services that the Realtor® provides to their client will not. In fact, it may be more important than ever to hire a skilled real estate

professional who is able to represent the best interests of the client while helping them navigate through the already complicated real estate terrain.

Searching for homes on the Internet is easy and consumers do it every day. What the Realtor® brings is not only the expertise and negotiation skills needed to help the consumer build that winning offer to get the buyer under contract, but also the organizational skills necessary to coordinate a multitude of services and vendors including home inspectors, appraisers, lenders, attorneys, and surveyors, all while negotiating repairs.

It remains to be seen whether the changes outlined in the Settlement Agreement will reduce home prices as the media has reported. What is more likely is that very little will change. Looking at the current housing shortage, it seems more likely that home prices will not decline, and may possibly increase – based upon simple supply and demand economics. In addition, sellers may still see a benefit in offering buyer agent compensation which can help a buyer with limited funds get to the closing table.

We already know that a large number of buyers struggle to come up with enough cash for a down payment and now, those same buyers will have the added pressure of figuring out how to pay their own agent or face going unrepresented. Financing commissions is not currently an option. To keep the market moving, sellers may choose to provide support to buyers through seller concessions.

Also important to note is that while commercial real estate professionals don't have anything resembling an MLS, or the pro-consumer benefits provided by an MLS, they still get paid. Residential brokers may have a period of retraining ahead of them, but this change is not as insurmountable as the media would like everyone to believe. The industry will forge ahead, consumers will still buy and sell real estate, and Realtors® will still be at the heart of the transaction providing the structure and expertise consumers need.