

MLS & Rules Committee

Agenda / Action Items



Date: 10.30.2023
Time: 1:00pm
Locati LBOR Office

Co-Chairperson: Cheri Drake
Co-Chairperson: Taylor LaRue
Staff Liaison: Linda Manley & Rob Hulse

Committee Members:

Cheri Drake	Taylor LaRue	Anna Wright	Baliley Stuart	Beth Ham
Chris Earl	Erin Maigaard	Greta Carter-Wilson	Jill Ballew	Katie Moore
Libby Grady	Lindsay Landis	Michelle Roberts-Freeman	Nicholas Lerner	Ryan Desch
Vanessa Schmidt	Zach Dodson			

P - Present **E - Excused Absence** **A - Absent**
Guests (non-Quorum)

AGENDA ITEMS

No	Topic	Done	Notes/Update
1	Review Previous Meeting Minutes from 10.03.2023		
2	Update from LMLS Staff		
	a. MLS Participation Rule - Anti-Trust: Current trial in KC with NAR, HomeServices, and Keller Williams as defendants.		
	b. Competition.Realtor - see handouts.		
3	Review/Approve the Sale of Residence Contingency completed by Brokers. <i>Deferred to next meeting.</i>		
4	Consider Changes to MLS Policy that requires an offer of Compensation at \$.01 or more. See Katie Johnson Letter from August 24, 2023. Heartland MLS has now updated their MLS Rule requiring Compensation of \$.01 or more, and now allow \$0.00.		
5	Review staff prepared Amendment to the Buyer Agency Agreement.		
6	Review staff prepared Amendment to the Exclusive Right of Sale.		
7	Consider Removing "Buyer Name" (field 198) from input with Sold information, for privacy concerns. a. Safe at Home page at the Attorney General website. https://ag.ks.gov/victim-services/safe-at-home		
8	Additional Photos in Paragon - Response from Paragon Support regarding photo options.		
9	See KREC Email regarding Disclosure of Complainant, and MLS or Association as Complainant.		

No	Topic	Presenter	Done	Notes/Update
10	Consider Tabled Topics? a. Readily Available to Show. b. Fair and Equal Access for all. c. Do we need policy/rules regarding Ancillary Dwelling Units (ADUs)? d. Define "Reasonably Prominent" in IDX Rules.			
11	Next Meeting: _____			
12	Adjourn:			

MLS & RULES COMMITTEE ACTION ITEMS

No	Action	Due Date	Responsible Member	In Process	Done	Notes/Update
	Complete updates to the Amendment to the EROS and Buyer Agency Agreement	10.30.2023	LMLS Staff - Rob		√	For Committee Consideration.
	Gather information from Paragon about options in Photo Admin in Paragon	10.30.2023	LMLS Staff - Rob	√		For Committee Consideration.
	Gather information from KREC regarding disclosure of ID of Complainant	10.30.2023	LMLS Staff - Rob		√	For Committee Consideration.
	Pull Brokers together to work on Sale of Residence Contingency Form	09.18.2023 to 10.25.2023	Sub-Committee		√	For Committee Consideration.
	Sub-Committee to work on Sale of Residence Contingency Form	09.18.2023	LMLS Staff - Rob		√	For Committee Consideration.
	Draft - Contingency for Sale of Buyer's Property	09.12.2023	LMLS Staff - Rob		√	For Committee Consideration.
	Communicate Web API conversion timeline to MLS Vendor of IDX, VOW, and BO services.	07.20.2023	LMLS Staff - Rob		√	Deadline of 8/1, with RETS disabled for IDX, VOW, & BO by 10.01.2023.
	Create a new Detail Report specific to feedback provided by Appraisers.	In Appraiser's Hands at this time.	Member Appraiser and LMLS Staff	√		Waiting on the Appraiser for noted changes.

Tabled or Old Business	Due Date	Responsible Member		Notes/Update
Troubleshoot with Paragon Support: Issue with new SOLD statuses for Agent/Office/Firm exclusive.	07.20.2023	LMLS Staff - Rob and Paragon Support		√ Consider SCR to fix implementation of Exclusive Sold Statuses.
Remove Contingent Badge from Active/Kick Out Clause status at Realtor.com	6.29.2023	Realtor.com has opened a ticket to process this request.		√ Done
Remove Pinckney and Broken Arrow Elementary Schools from Paragon. Discuss Paragon Support and possible rule to the field.	6.29.2023	Keeping both schools visible in Paragon, but not available for input		√ Listing will get an error message at input: "This school was closed by USD497 in May of 2023."
Prepare a Video Tutorial about the Auto Hotsheet and send out in newsletter.	6.29.2023	Included in most recent newsletter.		√ A simple screen shot doc was also provided.
Staff to ask Paragon Support about what exactly is triggered by DOM and DOMLS.	6.29.2023	Sent to Committee on 06.09.2023.		√ Discussion included on the 06.29.2023 Agenda.
Newly expanded fields in Paragon are not displaying properly on sites still using RETS for IDX, or MLS Syndication.	6/9/2023	Staff is monitoring IDX sites supported by IDX Broker.	√	Problem isolated to Brokers using IDX Broker via RETS.
Paragon Range Field for Approximate Fin SqFt is not working correctly (from Zach).	6/9/2023	LMLS Staff - Rob		√ Reached out to Paragon on 6/7/2023.
HomeSnap Pro: Photos not pulling through to the HomeSnap App (from Bailey).	6/9/2023	LMLS Staff - Rob		√ Reached out to HomeSnap on 6/7/2023.
HomeSnap Pro: Searching for Acres appears to be broken in the HomeSnap App (from Bailey).	6/9/2023	LMLS Staff - Rob		√ Reached out to HomeSnap on 6/7/2023.
Investment Property Rider to the Seller's Property Condition Disclosure to DocuSign, Dotloop, and in Paragon Contracts & Forms	4/28/2023	LMLS Staff - Rob		√ Sent to Brokers. Uploaded in Paragon. Sent to Dotloop and DocuSign.
Smart Home Rider to the Seller's Property Condition Disclosure to DocuSign, Dotloop, and in Paragon Contracts & Forms	4/28/2023	LMLS Staff - Rob		√ Sent to Brokers. Uploaded in Paragon. Sent to Dotloop and DocuSign.
List of IDX Websites Published Online	6/1/2023	LMLS Staff - Rob		√ Published on LBOR Site at Members > MLS Resources.

Tabled or Old Business	Due Date	Responsible Member		Notes/Update
Create an Informational Landing Page specific to the Clear Cooperation Policy.	6/1/2023	LMLS Staff - Rob	√	Work in progress...Do's and Don't's list to be created.
Prepare videos and tutorials for new Paragon Changes roll out. A page on LBOR Site will include all video and tutorials.	4/25/2023	LMLS Staff - Rob	√	Prepare ahead of cutover to newly updated fields.
Work with Realtor.com to map field to Open House Hosted by on their site	1/25/2023	MLS Staff - Rob	√	Open House information is included in the data feed to Realtor.com
Prepare a Training Video for new fields	4/21/2023	LMLS Staff - Rob	√	Collaborate with Ed Committee
Paragon Changes /Conversions of Fields	4/24/2023	LMLS Staff - Paragon	√	Cutover on for April 24th.
Set up testing group for Paragon Changes/Conversions of Fields	February 23rd (subject to pace of work by BK)	LMLS Staff - Rob / Paragon Support	√	Testing completed on April 11th
Create a Smart Home Turnover form as an Addendum to the Seller's Disclosure	1/25/2023	Lindsay Landis	√	Two versions for review on March 27th.
Present for approval - a Multi-Family Property Condition Disclosure Rider	1/25/2023	Zach Dodson	√	To be presented for approval at the 04.05.2023 Board Mtg
Provide Brokers with updated LBOR Sales Contract, Buyer Agency Agreement, and Listing Agreement (red-lined and clean)	1/23/2023	LMLS Staff - Rob	√	Completed on 1/23/2023.
Change Status of Withdrawn/Cancelled and Cancelled/Cancelled to Off Market/Withdrawn and Off Market/Cancelled.	1/25/2023	Rob/Paragon Support	√	Completed on 1/23/2023.
Add fields to Residential Class to gather rental information: Is the Property Rented? Lease Expiration? Rent Amount?	1/25/2023	Rob/Paragon Support	√	Updating the Residential Class on 1.24.2023
Update the Sales Contract, Buyer Agency Agreement, Listing Agreement at Dotloop.	2/6/2023	LMLS Staff - Rob	√	Completed on 02/10/2023.
Update the LBOR Sales Contract, Buyer Agency Agreement, and Listing Agreement at DocuSign	2/6/2023	LMLS Staff - Rob	√	All Docs Delivered to DocuSign, and waiting for library update & build out.

Tabled or Old Business		Due Date	Responsible Member		Notes/Update
	Release to all Members the Updated LBOR Sales Contract, Buyer Agency Agreement, and Listing Agreement	2/6/2023	LMLS Staff - Rob		√ Added to Paragon MLS Docs on 02.09.23, Dotloop on 02.10.23, and waiting on DocuSign.
	HERS Rating (Home Energy Rating System) as an MLS Field a. HERS Rated: Yes/No b. HERS Year: _____ c. HERS Rating: _____		LMLS Staff - Rob		√ Approved by Board of Directors and implemented by Feb. 13th.
1.a	Readily Available to Show, the NAR, and the Clear Cooperation Policy. NAR feedback - new listing information in put into MLS meets the criteria for Cooperation, rather than having immediate access for showings.	Consider returning this to the regular agenda.			Current Policy is that Listed Property be readily available to show = within 1 business day to be consistent with the CCP.
1.b	Fair & Equal Access to Listed Property. This policy was originally proposed to the LBOR Board of Directors in 2022.	Consider returning this to the regular agenda.			The LBOR Board of Directors sent this itme back to the MLS & Rules Committee for more
2	Two-Unit Property on a Single Lot - Accessory Dwelling Units vs Duplex. New category in Multi-Family, and/or New field in Residential for an Ancillary Unit.				No action was taken on this at the first discussion, although the relavancy and number of Ancillary Dwelling Units is growing.

MLS & Rules Committee

Meeting Minutes



Date: 10.03.2023
Time: 1pm
Locati LBOR Office

Co-Chairperson: Cheri Drake
Co-Chairperson: Taylor LaRue
Staff Liaison: Linda Manley & Rob Hulse

Attendees:

P Cheri Drake	P Taylor LaRue	A Anna Wright	p Baliey Stuart	P Beth Ham
P Chris Earl	LE Erin Maigaard	E Greta Carter-Wilson	E Jill Ballew	E Katie Moore
A Libby Grady	E Lindsay Landis	P Michelle Roberts-Freeman	P Nicholas Lerner	P Ryan Desch
P Vanessa Schmidt	P Zach Dodson			

P - Present **E - Excused Absence** **A - Absent** **AL - Arrived Late** **LE - Left Early**

Guests (non-Quorum)

AGENDA MINUTES

No	Topic	Presenter	Done	Notes/Update
1	Review Previous Meeting Minutes from 09/12/2023			After review, it was moved and 2nd to approve the previous meeting's minutes. Motion Passed.
2	Update from LMLS Staff			The Committee Reviewed 3rd Offence MLS Violations Violation #1 - After reievw, it was moved and seconded to forward what appears to be a KREC license law violation to the Professional Standards Committee to determine our next steps. Passed. Additionally, as discussion returned to the MLS Violation, it was moved and seconded to fine the subscriber \$500 for the Clear Cooperation Policy violation, and additionally, to reduce the permission level of the subscriber to a level 3 for the next 5 completed listing agent transactions in Paragon, which will require Broker/Staff assistance to make changes in the MLS that are german to the listing agreement. Motion Passed. Violation #2 - After review, it was moved and seconded to fine the subscriber \$500 for their 3rd offense, and to reduce the permission level of the subscriber to a level 3 for the next 5 completed listing agent transactions in Paragon, which will require Broker/Staff assistance to make changes in the MLS that are german to the listing agreement. Motion Passed.

Violation #3 - After review, **it was moved and seconded to fine the subscriber \$500 for their 3rd offense, and to reduce the permission level of the subscriber to a level 3 for the next 5 completed listing agent transactions in Paragon, which will require Broker/Staff assistance to make changes in the MLS that are german to the listing agreement. Motion Passed.**

Violation #4 - This agent has both a 3rd and 4th MLS Violation for the Committee to consider. After review, **it was moved and seconded to fine the subscriber \$500 for the 3rd offense, and additionally, to reduce the permission level of the subscriber to a level 3 for the next 5 completed listing agent transactions in Paragon, which will require Broker/Staff assistance to make changes in the MLS that are german to the listing agreement. Motion Passed.** For the agent's 4th MLS Violation, **it was moved and seconded to assess a fine of \$1,000 and to require the agent to remain at level 3 in paragon for 10 completed listing agent transactions in Paragon. Motion Passed.**

The Committee Reviewed an Appeal of a 2nd Offense Fine

The Committee then reviewed an Appeal of a 2nd Offense. After discussion, **it was moved and seconded to deny the request for appeal. Motion Passed.**

- 3 Returning to Committee Agenda Items - the Committee next received an update on the progress of the Sale of Residence Contingency Form. Work is underway with Brokers. The form will be returned to the Committee when complete.
- 4 Next, the Committee reviewed the Amendment to the Buyer Agency Agreement. Changes were suggested and staff is to return to the next meeting with changes made for both the Amendment to the Buyer Agency Agreement, and to the Amendment to the Listing Agreement.
- 5 Next, the Committee considered a member request to expand the number of photos available in Paragon. After discussion about possible design costs for the All Fields Detail, and Customer Detail in Paragon, staff was directed to contact Paragon about options to expand the total number of photos, without causing the Details/Reports to have design needs.
- 6 Next, the Committee learned of a concern regarding Facebook Marketplace posts done by agents, wherein it appears that the posting agent is the Seller. It was determined that this is not malicious behavior, and more of a need to educate the members making these posts that they cannot appear in an advertisement as the owner/seller.

Meeting was adjourned at 2:30pm, with the next meeting day and time scheduled for October 30th at 1:00pm.

Burnett Trial Updates

Update: October 27, 2023

On Friday, four more witnesses took the stand for the corporate defendants. The trial will continue Monday morning with one more witness expected, followed by closing statements, jury instructions and then jury deliberation, which could begin as soon as Monday afternoon. A verdict could then be delivered at any point and likely sometime next week.

NAR Position

For more information: [REALTOR® Magazine - Burnett Trial Preview](#)

Update: October 26, 2023

Thursday, four additional witnesses took the stand for the corporate defendants.

Video testimony of Scott Trupiano, a withdrawn plaintiff, detailed his experiences both purchasing and selling homes. Trupiano recounted how he was very satisfied with his real estate agent and worked with her as both a seller agent and buyer agent for three separate transactions. Trupiano agreed to the terms of the listing agreement each time and rated his agent a 9 out of 10 on each transaction, sharing how he valued the services she provided.

David Stevens, who previously served as Assistant Secretary of Housing and Federal Housing Commissioner for the U.S. Department of Housing and Urban Development (HUD) and oversaw FHA programs for Single and Multi-Family Housing, discussed why the current compensation model is not only helpful for both home sellers and buyers, but particularly first-time buyers:

- Most first-time home buyers are cash constrained and requiring them to also pay for the buyer agent commission could force them to put down less for a down payment or forego professional services needed for one of the biggest purchases they'll make in their lifetime.

- Home sellers benefit from the offer of compensation because it ensures the seller will receive the most qualified buyers and the best offer.
- Buyer brokers' expertise is needed now more than ever because it is hard to buy a home.
- The compensation the listing broker pays to the buyer broker is always negotiable.

Dr. Lawrence Wu, President of National Economic Research Associates, also testified that:

- There is no evidence of conspiracy because offers of compensation are decisions independently made between a home seller and a listing broker, and always negotiable.
- The offer of compensation benefits sellers by ensuring they get more buyers to see their house and more competitive bids, and benefits buyers by ensuring they have more choices and access to professional representation.
- No one gets paid until a property sale closes, which fosters competition and creates a marketplace where brokers are further motivated to always serve their clients' best interests.
- Even if the cooperative compensation rule was not in place, evidence shows that the practice of cooperative compensation would still exist because it is good for sellers and buyers.

Keller Williams plans to present their witnesses on Friday, with closing arguments by all parties likely to begin on Monday, followed by jury deliberations.

Update: October 25, 2023

On Wednesday, four witnesses took the stand for the corporate defendants who will continue presenting their case through the week. Defense expert witnesses are anticipated to take the stand tomorrow and closing arguments could be as early as Monday. HomeServices of America, Inc. filed a motion for mistrial, which the court denied.

Update: October 24, 2023

Tuesday the defense continued their case as NAR CEO Bob Goldberg completed his testimony and NAR Director of Engagement Rodney Gansho took the stand. Gansho explained how Multiple Listing Services (MLSs) and associated rules work and noted:

- Local MLS broker marketplaces promote transparency, equity, and efficiency for the benefit of consumers and enable real estate professionals to better serve their clients.
- Local MLS broker marketplaces determine their rules locally and decide whether to adopt provisions of NAR’s MLS Handbook, including those identified as “mandatory.”
 - Should a local MLS choose not to adopt mandatory provisions, it would need to purchase its own error and omissions insurance.
 - Local MLSs are responsible for enforcement of the rules it adopts.
 - Nothing in NAR’s MLS handbook requires sellers to do anything.
- “Blanket unilateral offers of compensation” means the listing broker makes a one-way, initial offer (unilateral) that is the same (blanket) for any MLS participant who brings a ready, willing buyer. That offer can then be negotiated – and often is – at any point in the transaction.
- The listing broker has fiduciary duties to the seller and the buyer broker has fiduciary duties to the buyer, and no one makes any money unless there is a successful transaction and the property sells.
 - Sellers determine which real estate professional to work with, and whether to even work with one.
 - At the outset of the transaction, sellers determine how much they will pay for a real estate professional’s services, which is then memorialized in the listing agreement between the seller and the real estate professional.
 - The NAR Code of Ethics requires REALTORS® to disclose to sellers any amount of compensation that will be offered to a buyer broker who brings a ready, willing buyer to successfully purchase the seller’s property.
 - The NAR Code of Ethics requires buyer brokers to inform buyers of all properties that meet their criteria, regardless of the offer of compensation being made to the

buyer broker; and buyer brokers have options when they are not getting the cost of their services covered by the seller broker, including that the buyer can pay directly for the buyer broker's services or the buyer can ask the seller to cover that cost.

- The NAR cooperative compensation rule benefits sellers by exposing their home to every brokerage and real estate agent with ready, willing buyers to successfully purchase the buyer's home. Buyers benefit because there is one centralized marketplace to go to, and they don't have to pay out of pocket expenses, which means more buyers can afford a home and have more money to purchase a home, and sellers have a larger pool of buyers to purchase their home.
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Update: October 23, 2023

Today, plaintiffs rested their case after presenting testimony from four more witnesses. In the afternoon, the defense began its case and presented NAR CEO Bob Goldberg. Goldberg shared the many functions and benefits of a trade association, and specifically how NAR works to protect, preserve, and advance homeownership, as well as to increase professionalism in the industry, and all for the benefit of consumers. NAR also presented Sharon Millett, NAR Past President and Chairperson of the 1991-92 NAR Presidential Advisory Group on Agency (PAG).

Millett explained:

1. The PAG found that buyers needed and wanted a loyal advocate to represent them in the transaction, as the market shifted from subagency to buyer agency.
2. The PAG's charge and goal was to accommodate and encourage different forms of representation, placing a consumer's freedom of choice as central to the PAG's work.
3. The PAG didn't focus on compensation, as the practice of offering cooperative compensation already existed in the marketplace.

4. The PAG's work allowed the marketplace to evolve and to provide consumers greater choice, with today's norm giving buyers the ability to work with a loyal buyer agent who puts their needs above anyone else's.
 5. Buyer brokers expend a significant amount of time and effort on behalf of their buyer clients and advise buyers on all aspects of the transaction, including helping buyers sort through the overwhelming amount of information available to consumers on the internet.
 6. Listing brokers would still offer compensation to buyer brokers even if the NAR cooperative compensation rule did not exist because:
 - a. It is the best way to expose a seller's property to the largest number of buyers.
 - b. If the seller's broker isn't offering enough to cover a buyer broker's fees, buyers may pass over a property because cash-strapped buyers can't afford to cover the buyer broker's fees on top of the significant amount of money it takes to purchase a home.
 - c. Sellers get better pricing offers and allows sellers to sell their home faster, as two brokers work cooperatively to achieve a successful transaction for both the seller and the buyer's benefit.
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Update, October 21, 2023

On Friday, plaintiffs had three witnesses including one who talked about how commissions work abroad. Following are three perspectives about compensation and the consumer experience in other countries.

- [Local Broker Marketplaces: Insights From a Romanian REALTOR®](#) (link is external) (*Inman*, September 2023)
- [Opinion: Is Israel Adopting the U.S. Real Estate Model?](#) (link is external) (*Real Trends*, June 2023)
- [Why the U.S. MLS System Is the Envy of Other Countries](#) (link is external) (*Housing Wire*, July 2021)

Plaintiffs are expected to conclude their case on Monday when the defense is expected to begin presenting its case.

Update: October 20, 2023

On Thursday, another seller member of the class and an economics professor testified as plaintiffs' witnesses. Some of the discussion centered on the compensation model in local MLS broker marketplaces. For context:

- Agent compensation is set between brokers and their clients and always has been negotiable at any point in the transaction. Those costs are spelled out to buyers and sellers, and NAR doesn't tell people what to charge. The NAR Code of Ethics also requires members to advise clients about cooperation and amounts of compensation to be offered.
- Despite what may be months or even years of work, agents only get paid when a home is sold, and according to [Real Trends](#)(link is external), commission rates have fluctuated over time and are well below where they were in the '90s.
- The seller decides what fee they are willing to pay for their broker's services and how much that listing broker should offer a broker who brings a buyer to close the transaction.
- Because of this practice, sellers have access to the largest possible pool of buyers, and buyers get access to the greatest number of homes for sale in one place all in transparent and efficient virtual marketplaces.
- Buyers also have the greatest chance to receive professional representation to guide them through the financial, legal and community complexities of buying a home in what is for many the single most complex and significant purchase they will make in their lifetime.
- The future of that buyer representation is at risk in this case.

Update: October 19, 2023

- On Wednesday, three members of the class took the stand to testify as to their experience as home sellers, along with other Plaintiff's witnesses. In addition, the plaintiffs' attorneys presented recorded video deposition testimony from three NAR witnesses who discussed NAR MLS guidance, including The Clear Cooperation Policy.

- *The Clear Cooperation Policy (CCP) ensures brokers and agents serve the best interest of consumers and promote equal opportunity for all. The CCP advances equal access and opportunity in housing by ensuring listings are widely available and accessible to all consumers and requires MLS participants to submit their listings within one business day of marketing the property to the public. Without the protections from the CCP, consumers would be disadvantaged because agents could refuse to give agents or customers access to those listings.*
 - *The CCP is especially important in competitive markets where properties sell extremely fast, and to help inoculate against circumstances in which properties are publicly marketed to limited groups of people.*
 - *CCP was enacted in response to concerns about confusion in the marketplace about the availability of properties – often to the disadvantage of both home buyers and sellers. Brokers and local MLS broker marketplaces across the country asked NAR to consider a policy reinforcing the pro-consumer, pro-competitive benefits of listing a property in local MLS broker marketplaces.*
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Update: October 18, 2023

- On Wednesday, three members of the class took the stand to testify as to their experience as home sellers, along with other Plaintiff's witnesses. In addition, the plaintiffs' attorneys presented recorded video deposition testimony from three NAR witnesses who discussed NAR MLS guidance, including The Clear Cooperation Policy.
 - *The Clear Cooperation Policy (CCP) ensures brokers and agents serve the best interest of consumers and promote equal opportunity for all. The CCP advances equal access and opportunity in housing by ensuring listings are widely available and accessible to all consumers and requires MLS participants to submit their listings within one business day of marketing the property to the public. Without the protections from the CCP, consumers would be disadvantaged because agents could refuse to give agents or customers access to those listings.*

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 - *CCP was enacted in response to concerns about confusion in the marketplace about the availability of properties – often to the disadvantage of both home buyers and sellers. Brokers and local MLS broker marketplaces across the country asked NAR to consider a policy reinforcing the pro-consumer, pro-competitive benefits of listing a property in local MLS broker marketplaces.*
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Update: October 17, 2023

- Tuesday plaintiffs, co-defendants and NAR outside counsel, Ethan Glass, presented opening remarks in the case of *Burnett et al v. National Association of REALTORS® et al*. Glass noted that:
 - *NAR rules are made as part of a very public rule-making process and are persistently and publicly shared and available.*
 - *The compensation rule ensures the buyer broker knows what they will be paid before they commence work and that buyers can afford representation.*
 - *Plaintiffs envision a world where there is no buyers' agent and buyers would have to go it alone in what is the single most complex and significant purchase most people will make in their lifetime.*
 - *If buyers had to pay out of pocket for representation, that would reduce the number of buyers and the money buyers have to purchase homes from sellers.*
 - *NAR does not seek, track, receive or set commissions for buyers' or sellers' agents. Agent compensation is set between brokers and their clients and has always been negotiable at any point in the transaction, as set forth in NAR's publicly available guidance for members. And those costs are spelled out to buyers and sellers.*
 - *Every plaintiff in this case knew the commission they were paying to their agent and agreed to it in writing.*

- *Article 1 of the NAR Code of Ethics requires a REALTOR® to “protect and promote the interests of the client.” NAR also has rules that prohibit antitrust behavior.*
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Update: October 15, 2023

Jury selection is scheduled for Monday, Oct. 16, and opening statements are scheduled for Tuesday, Oct. 17.

NAR Position:

In response to the marketplace, NAR has developed guidance for local MLS broker marketplaces that supports consumers getting comprehensive, equitable, transparent and reliable home information while brokerages of any size, service or pricing model get a fair shot at competing. The result is an efficient model for brokers to serve sellers and buyers and to enable market-driven pricing and buyer representation for consumers. REALTORS® adhere to a strict Code of Ethics and bring incredible expertise to guide consumers through the financial, legal and community complexities of buying or selling a home.

For more information: [Preview: Burnett Trial Starts Monday–REALTOR® Magazine](#)

LOCAL MLS BROKER MARKETPLACES IN ACTION

Multiple Listing Services (MLSs) are independent broker marketplaces that connect buyers and sellers of real estate in the U.S. through their respective agents. Local MLS broker marketplaces give first-time, low-income and other buyers better access to the American dream of homeownership while also exposing a seller's property to the greatest number of potential buyers.

WHAT LOCAL MLS BROKER MARKETPLACES DO FOR YOU:

Largest databases of available homes



Most up-to-date home status information



Maximized visibility of homes for sale



Verified, trusted, detailed and accurate property information



Facilitate cooperation between buyer and seller brokers



Equal opportunity for all home buyers and sellers



Easy to find the agent selling the home



Level playing field between large and small brokerages



A WORLD WITHOUT LOCAL MLS BROKER MARKETPLACES:



No centralized source of available homes



Outdated home status information



Fewer homes for buyers to choose from on real estate websites



Unverified, inaccurate and unreliable property information



Buyers/sellers would likely have to pay to list on websites



Residents without access to brokerages would have fewer options



Inconsistent broker information in listings across marketplace



Markets become broker-controlled

HOW REAL ESTATE COMMISSIONS WORK

It's important for consumers looking to experience the American dream of homeownership to understand how real estate agents are paid for the services they provide. At the outset, the seller and that person's listing broker agree on the amount the listing broker will receive for the services it provides to the seller. The listing broker and seller also discuss and agree upon an amount that the listing broker will pay a broker who successfully closes the transaction with a ready, willing and able buyer. Here are seven additional things you need to know. For further information check out realestatecommissionfacts.com.

1. **Commissions are always negotiable.**

Commissions can be negotiated at any point throughout the transaction, including at the outset, after the results of a home inspection and after an offer has been made. Sellers negotiate with their broker what fee they are willing to pay for their broker's services and what fee they are willing to pay a cooperating buyer broker for finding someone who wants to buy their home.

2. **There are different commission models to choose from.**

Buyers have many different choices about which broker they want to work with in terms of everything from the commission model to a real estate agent's particular expertise to the agents' customer service approach. In the full-service approach, commissions are negotiable at any point during the home buying process. The reduced service/discounted fee model allows for flexible offerings and pricing. The flat fee approach allows buyers to negotiate a set price per service.

3. **Commission rates are set by the market.**

The free market organically establishes commission costs within local real estate markets based on service, consumer preference and what the market can bear, among other things. National Association of REALTORS'® guidelines ensure that the listing broker advise all other participants in their local broker marketplace what the amount of compensation to the buyer's broker will be for closing the sale. That amount is determined by the seller and the seller's broker. Commissions fluctuate over time, including having decreased steadily in recent years and having fallen to a new low of 4.94% in 2020.

4. **Commissions cannot be included as part of a mortgage.**

Unlike mortgage broker fees, closing costs, and appraisals, real estate sales commissions are not directly linked to the mortgage loan production and therefore cannot be financed. By definition, a mortgage is a lien against a property, which means the property itself serves as the asset that the lender can take back to recoup value if the borrower defaults. Commissions, on the other hand, are based on a service provided and there is no way for the lender to recover the value of the service in the event of a default on the mortgage. Further, lenders rely on investors to purchase mortgages to help fund these loans. Since mortgages do not include personal services today, if that changed and mortgages started to cover costs that are not secured by the property, lenders and investors may be less willing to lend and invest, and mortgages could be more costly. For further information check out realestatecommissionfacts.com.

5. **REALTORS® are bound by a strict code of ethics in the home buying process.**

REALTORS® are bound by NAR's Code of Ethics to always further clients' best interests, including showing homes that meet buyers' needs regardless of commissions offered. Additionally, in November 2020, NAR introduced its Fair House Action Plan, abbreviated 'ACT,' which emphasizes (A)ccountability, (C)ulture Change, and (T)raining in order to ensure America's 1.5 million REALTORS® are doing everything possible to protect housing rights in America.

6. **Broker cooperation keeps local broker marketplaces from fracturing.**

Lack of complete, transparent and accessible data for all would mean smaller brokerages and new entrants have to piecemeal information and couldn't offer as many options to sellers and buyers, and larger brokerages would dominate local markets, creating emerging behemoths that would drive up costs., transparent and accessible data for all would mean smaller brokerages and new entrants have to piecemeal information and couldn't offer as many options to sellers and buyers, and larger brokerages would dominate local markets, creating emerging behemoths that would drive up costs.

7. **Broker cooperation sets the U.S. real estate industry apart from the rest of the world.**

The U.S. model has long been – and is still – viewed as the best option for consumers around the world. Buyers abroad are forced to wade through a complex and fragmented market where they have to work with multiple brokerages and where there is no exclusivity so sales can fall through. Generally, the homebuying process abroad is similar to buying a car in the United States where you have to go dealer to dealer, it's very time consuming and impersonal. It's also common for brokers to charge fees and taxes in other countries that add up to the equivalent or greater of costs associated with buying and selling property in the U.S., yet only provide a fraction of the services consumers receive here.



179 WAYS

AGENTS WHO ARE REALTORS® ARE WORTH EVERY PENNY OF THEIR COMPENSATION.

Here's a look at all the things — big and small — that an agent who is a REALTOR® may do to help clients when buying and selling a home.

You know you earn every penny you get when you sell a home. This list can help you show your customers exactly what you do to help them buy or sell their home.

PRE-LISTING ACTIVITIES



1. Make appointment with seller for listing presentation
2. Send seller a written or e-mail confirmation of listing appointment and call to confirm
3. Review pre-appointment questions
4. Research all comparable currently listed properties
5. Research sales activity from Local MLS Broker Marketplaces and public records databases
6. Research *Average Days on Market* for property of this type, price range, and location
7. Download and review property tax roll/assessor information
8. Prepare preliminary Comparable Market Analysis (CMA) to establish fair market value
9. Obtain copy of subdivision plat/complex lay-out
10. Research property's ownership and deed type
11. Research property's public record information for lot size and dimensions
12. Research and verify legal description
13. Research property's land use coding and deed restrictions
14. Research property's current use and zoning
15. Verify legal names of owner(s) in county's public property records
16. Prepare listing presentation package with above materials
17. Perform exterior Curb Appeal Assessment of subject property
18. Compile a formal file on property
19. Confirm current public schools and explain impact of schools on market value
20. Review listing appointment checklist to ensure all steps and actions are completed
21. Review Obsolete Property Rehabilitation Act (OPRA) Report from Township for all permitted records
22. Add client into your database



LISTING APPOINTMENT PRESENTATION



23. Give seller an overview of current market conditions and projections
24. Tour property
25. Review agent's and company's credentials and accomplishments in the market
26. Present company's profile and position or niche in the marketplace
27. Present preliminary CMA to seller, including comparable properties, sold properties, current listings, and expired listings
28. Offer pricing strategy with updates to CMA based on tour of home and updates, upgrades professional judgment, and current market conditions
29. Discuss goals with seller to market effectively
30. Explain market power and benefits of Local MLS Broker Marketplaces
31. Explain market power of web marketing, IDX and REALTOR.com
32. Explain the work you do behind the scenes and your availability on weekends
33. Explain role in screening for qualified buyers and protect seller from curiosity seekers
34. Present and discuss strategic master marketing plan
35. Explain transaction/agency brokerage relationship
36. Review and explain all clauses in listing contract and addendum, then obtain seller's signature once property is under listing agreement
37. Review current title information
38. Gather square footage/measure overall and heated square footage as required
39. Measure interior room sizes
40. Confirm lot size via owner's copy of certified survey, if available
41. Note all unrecorded property liens, agreements, easements
42. Obtain house plans, if applicable and available
43. Review house plans and make copy
44. Prepare showing instructions for buyers' agents and showing times with seller
45. Discuss possible buyer financing alternatives and options with seller
46. Review current appraisal if available
47. Identify Homeowner Association manager if applicable
48. Verify Homeowner Association Fees with manager—mandatory or optional, plus fees
49. Order copy of Homeowner Association bylaws, if applicable
50. Research electricity availability, supplier's name, and phone number

LISTING APPOINTMENT PRESENTATION (CONTINUED)



51. Have utility companies provide average utility usage from last 12 months of bills
52. Research and verify city sewer/septic tank system
53. Calculate average water fees or rates from last 12 months of bills
54. Confirm well status, depth and output from Well Report
55. Natural Gas: Research/verify availability, supplier's name, and phone number
56. Verify security system, current terms of service and whether owned or leased
57. Verify if seller has transferable Termite Bond
58. Ascertain need for lead-based paint disclosure
59. Prepare detailed list of property amenities and assess market impact
60. Prepare detailed list of property's inclusions and conveyances with sale
61. Compile list of completed repairs and maintenance items
62. Send vacancy checklist to seller if property is vacant and register the property with the township if it is vacant or a rental home
63. Explain benefits of Homeowner Warranty to seller
64. Assist sellers with completion and submission of Homeowner Warranty Application
65. Place Homeowner Warranty in property file for conveyance at time of sale
66. Have extra key made for lockbox and one for your file
67. Verify if property has rental units involved.
68. If the property does have rental units, make copies of all leases for retention in listing file
69. Verify all rents and deposits
70. Inform tenants of listing and discuss how showings will be handled



LISTING APPOINTMENT PRESENTATION (CONTINUED)



71. Arrange for installation of yard sign
72. Complete new listing checklist
73. Review curb appeal assessment and provide suggestions to improve saleability
74. Review interior décor assessment and suggest changes to shorten time on market
75. Load listing into transaction management software program
76. Prepare Local MLS Broker Marketplaces Profile Sheet
77. Enter property data from Profile Sheet into Local MLS Broker Marketplaces Database
78. Proofread Local MLS Broker Marketplaces database listing for accuracy—including proper placement in map
79. Add property to company's active listings list
80. Provide seller copies of the listing agreement and Local MLS Broker Marketplaces Profile Sheet within 48 hours or within the time period of Local MLS Broker Marketplace guidelines
81. Take additional photos for upload into Local MLS Broker Marketplaces and use in fliers
82. Create print and internet ads with seller's input
83. Coordinate showings with owners, tenants, and other agents.
84. Return all calls
85. Install electronic lock box if authorized. Program agreed-to showing times
86. Prepare mailing and contact list
87. Generate mail-merge letters to contact list
88. Order *Just Listed* labels and reports
89. Prepare fliers and feedback reports
90. Review comparable Local MLS Broker Marketplaces regularly to ensure property remains competitive
91. Prepare property marketing brochure for seller's review
92. Arrange for printing or copying of marketing brochures or fliers
93. Place marketing brochures in all company agent mailboxes
94. Upload listing to company and agent Internet site, if applicable
95. Mail out *Just Listed* notice to all neighborhood residents
96. Advise network referral program of listing
97. Provide marketing data to buyers through international relocation network buyers
98. Provide marketing data to buyers coming from referral network
99. Provide *Special Feature* cards for marketing, if applicable

LISTING APPOINTMENT PRESENTATION (CONTINUED)



- 100.** Submit ads to company's participating internet real estate sites
- 101.** Price changes conveyed promptly to all internet groups
- 102.** Reprint/supply brochures promptly as needed
- 103.** Feedback e-mails sent to buyers' agents after showings
- 104.** Review weekly market study
- 105.** Discuss with sellers any feedback from showings to determine if changes are needed
- 106.** Set up marketing reports on showing-time application and company website
- 107.** Place regular weekly update calls to seller to discuss marketing and pricing
- 108.** Promptly enter price changes in the Local MLS Broker Marketplaces database



OFFERS

- 109. Receive and review all *Offer to Purchase* contracts submitted by buyers' agents.
- 110. Evaluate offer(s) and prepare a net sheet for the owner for comparison purposes
- 111. Explain merits and weakness of each offer to sellers
- 112. Contact buyers' agents to review buyer's qualifications and discuss offer
- 113. Deliver *Seller's Disclosure* to buyer upon request and prior to offer if possible. Upload to the Local MLS Broker Marketplaces additional documents at time of listing
- 114. Confirm buyer is pre-qualified by calling loan officer
- 115. Obtain buyers' pre-qualification letter from loan officer if not submitted with offer
- 116. Negotiate all offers per seller's direction on seller's behalf, set time limit for loan approval and closing
- 117. Prepare and convey counteroffers, acceptance or amendments to buyer's agent
- 118. Create excel spreadsheets for easy review on multiple bids
- 119. Email or send copies of contract and all addendum's to the closing attorney or title company
- 120. When *Offer to Purchase* contract is accepted, deliver to buyer's agent

CONTRACTS

- 121. Record and promptly deposit buyer's earnest money in escrow account
- 122. Disseminate under-contract showing restrictions as seller requests
- 123. Deliver copies of fully signed *Offer to Purchase* contract to seller
- 124. Deliver copies of *Offer to Purchase* contract to lender
- 125. Provide copies of signed *Offer to Purchase* contract for office file
- 126. Advise seller of additional offers submitted between contract and closing
- 127. Change status in Local MLS Broker Marketplaces to *Sale Pending*
- 128. Update transaction management program to show *Sale Pending*
- 129. Provide credit report information to seller if property will be seller-financed
- 130. Assist buyer with obtaining financing, if applicable, and follow-up as necessary
- 131. Coordinate with lender on discount points being locked in with dates

INSPECTIONS

- 132.** Deliver unrecorded property information to buyer
- 133.** Order septic system inspection, if applicable
- 134.** Receive and review septic system report, and assess any possible impact on sale
- 135.** Deliver copy of septic system inspection report lender and buyer
- 136.** Deliver Well Flow Test Report copies to lender and buyer, and property listing file
- 137.** Verify termite inspection ordered
- 138.** Verify mold inspection ordered, if required
- 139.** Confirm verifications of deposit and buyer's employment have been returned
- 140.** Follow loan processing through to the underwriter
- 141.** Add lender and other vendors to your management program so agents, buyer, and seller can track progress of sale
- 142.** Contact lender weekly to ensure processing is on track
- 143.** Relay final approval of buyer's loan application to seller



HOME INSPECTIONS

- 144. Coordinate with seller for buyer's professional home inspection
- 145. Review home inspector's report
- 146. Enter completion into transaction management tracking program
- 147. Explain seller's responsibilities, and recommend an attorney interpret any clauses in the contract
- 148. Ensure seller's compliance with *Home Inspection Clause* requirements
- 149. Assist seller with identifying contractors to perform any required repairs
- 150. Negotiate payment, and oversee all required repairs on seller's behalf, if needed



THE APPRAISAL

- 151. Schedule appraisal
- 152. Provide to appraiser any comparable sales used in market pricing
- 153. Follow-up on appraisal



PROCESSING FOR CLOSING

154. Enter completion into transaction management program
155. Assist seller in questioning appraisal report if it seems too low
156. Get contract signed by all parties
157. Coordinate closing process with buyer's agent and lender
158. Update closing forms and files
159. Ensure all parties have all forms and information needed to close the sale
160. Select location where closing will be held
161. Confirm closing date and time, and notify all parties
162. Assist in solving any title problems or in obtaining death certificates
163. Work with buyer's agent in scheduling buyer's final walk-thru prior to closing
164. Double check all tax, homeowners' association dues, utility, and applicable prorations
165. Request final closing figures from closing agent (attorney or title company)
166. Receive and carefully review closing figures to ensure accuracy of preparation
167. Confirm buyer and buyer's agent have received title insurance commitment
168. Provide homeowners warranty for availability at closing
169. Forward closing documents to absentee seller as requested
170. Review documents with closing agent (attorney)
171. Coordinate closing with seller's next purchase, and resolve any timing problems
172. Have a *no-surprises* closing so seller receives a net-proceeds check at closing
173. Refer sellers to one of the best agents at their destination, if applicable
174. Change Local MLS Broker Marketplaces status to *Sold*. Enter sale date, price, selling broker, etc.



FOLLOW-UP AFTER CLOSING



175. Share the warranty paperwork for claims in the future

176. Attempt to clarify and resolve any conflicts about repairs if buyer is not satisfied

177. Respond to any calls and provide any information required from office files

178. If a rental, verify all deposits and prorated rents are reflected accurately on the closing statement

179. Close out listing in your management program



REALTORS® are members of the National Association of REALTORS®.

Print this out and use it in your listing presentation to show prospective sellers all that you do to earn your compensation.



430 North Michigan Avenue | Chicago, IL 60611-4087
800.874.6500 | nar.realtor

Local MLS Broker Marketplaces Make Home Fantasies Realities

Many people enjoy scrolling endlessly through thousands of homes on the internet, but few know about local MLS broker marketplaces that make it all possible.

Online home search sites and broker websites source their data from local MLS broker marketplaces, which contain verified, up-to-date home listings for each region, all in one place. Realtors® participate directly in local MLS broker marketplaces to ensure home buyers and sellers have access to the largest pool of available homes and buyers.

Provide transparent, equitable and instant exposure and access to all home listings.



Ensure the most accurate, up-to-date and verifiable source of active listings and past sales.



Maximize consumer choice about which brokers with whom to work.



What Local MLS Broker Marketplaces Do for You:



Enable sellers and buyers to have professional representation in the complex home sales process.



Permit different business models — from varied commissions to flat fees — to thrive.

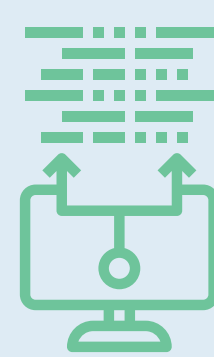


Foster competitive pricing and market competition for small businesses and businesses of all sizes.

Why It Matters:



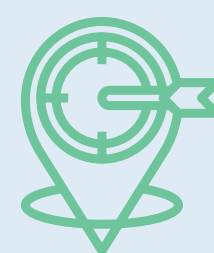
Homes listed on local MLS broker marketplaces sell for an average of **14.8% more** than off-market properties.*



Buyers easily access the most homes for sale regardless of which broker they choose to work with or how much that broker is being paid for their work, free from discrimination.



Off-MLS homes sold for \$349,773 on average, while similar on-MLS properties sold for an average price of \$395,244. **That's a \$45,471 difference!***



There are more than **500 local broker marketplaces** in the United States, all of which facilitate and encourage competition in real estate.



In 2022, **86% of sellers listed their homes on local MLS broker marketplaces**, the No. 1 listing source for sellers to broadly market their homes.**



Protections have been strengthened to ensure the security of local broker marketplace data.

* 2022 Bright MLS study: Measuring the Benefits of an Open Marketplace study

** NAR 2022 Profile of Home Buyers and Sellers report

3 WAYS TO MAXIMIZE THE VALUE OF YOUR REAL ESTATE AGENT

1.

USE THEIR EXPERT KNOWLEDGE ON THE HOME BUYING PROCESS

Real estate agents have access to the largest database of available homes in the U.S. via local broker marketplaces. They are expert, local brokers helping consumers navigate what is for many the most complex and important transaction they'll ever do.

While **97%** do research about a home online, 9 in 10 people still chose to work with a real estate agent.*

91% of home buyers consider their real estate agent to be a useful source of information.**

Top 3 Services Buyers Want Most From Real Estate Agents



Help **finding the right home** to purchase



Help with **terms of sale** and **price negotiations**



Help with **paperwork** (contracts, forms, etc.)

2.

CHOOSE THE SERVICE, COMPENSATION MODEL AND REAL ESTATE AGENT THAT BEST FIT YOUR NEEDS



Full-Service Model

Commissions are negotiable at any point during the home buying process



Flat Fee Model

Negotiate a set price per service



Reduced Service/ Discounted Fee Models

Flexible offerings and pricing



DID YOU KNOW?

90%

of homebuyers would recommend their agent, but if you're part of the remaining 10%, there are more than **1.5 million REALTORS®** in the U.S. to choose from.

3.

LET THEM DO ALL THE HARD WORK AND TAKE THE STRESS OUT OF YOUR HOME SEARCH



87% of Americans purchase their home through a real estate agent or broker.

Regardless of how you find a property, real estate agents are there to show and research every home that fits your needs.



Real estate agents also navigate:



Community knowledge such as local property taxes and providing objective resources on schools and neighborhoods.



Financial aspects like coordinating with lenders and researching mortgage rates.



Legal matters like helping buyers manage required state and federal forms and closing documents.

THE ESSENTIAL REAL ESTATE AGENT

Buying a home is the largest and most complex transaction most people will make in their lifetime, with volumes of property, neighborhood, transaction, legal and regulatory details to navigate. Having an expert, local professional manage the process is more important than ever.

NAVIGATING THE BUYING PROCESS

Real estate agents wear many hats...



Community

- Know local, county and state property taxes
- Decipher public property information
- Advise on price trends, schools and neighborhoods



Financial

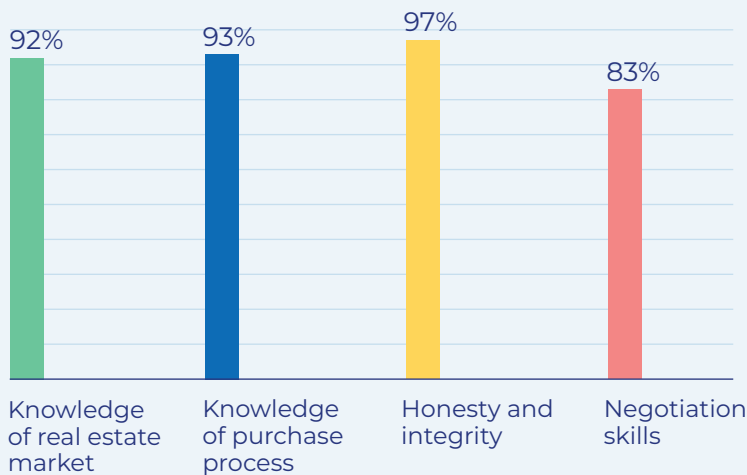
- Coordinate with lenders
- Research mortgage rates and terms
- Schedule appraisals and inspections



Legal

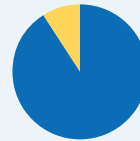
- Manage attorney reviews
- Navigate all required state and federal forms
- Handle closing documents

HOME BUYERS' SATISFACTION WITH REAL ESTATE AGENTS



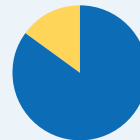
Data according to National Association of REALTORS® 2019, 2020 and 2021 Profile of Home Buyers and Sellers Reports

AN EXPERT RESOURCE



91%

of home buyers consider their real estate agent to be a useful source of information.



85%

of first-time home buyers say their real estate agent helped them understand the home buying process.

REAL ESTATE AGENT TO-DO LIST

- Educate clients about transaction process
- Search broadest database of available homes
- Research information about properties
- Arrange tours of homes
- Navigate home inspections
- Negotiate best possible price

YOUR ADVOCATE

Expert real estate agents save home buyers time and help take stress out of the process. In fact, **90%** of home buyers say they would engage their real estate agent again or recommend them to others.

WHY HIRE AN AGENT WHO IS A REALTOR®?

As experts of all things related to home buying and selling, real estate agents who are REALTORS® help consumers navigate the most complex and consequential transaction many of us will ever make.



BUYERS:

Roughly 9 in 10 buyers work with a real estate agent who helps negotiate the best price & terms.



SELLERS:

Without a REALTOR®, For Sale By Owner homes sell for about 26% less than agented properties.*

WHEN YOU USE A REAL ESTATE AGENT:

They help you with things like...



Navigate legal details including managing attorney reviews, filing required state and federal forms, and knowing contracts inside and out.



Understand financial complexities such as mortgage rates and terms, appraisals and inspections, and coordination with lenders.



Uncover community elements like property taxes, public property information, price trends and neighborhood details.

WHEN YOU DON'T USE A REAL ESTATE AGENT:

You have to do things like...



Make sense of all the legal aspects of buying or selling a home.



Become a financial expert and learn local tax codes & policies.



Coordinate inspections and appraisals without training or knowing the best people.



Learn local negotiating trends and market.



Write your offer to outshine all buyers. As seller, evaluate all details of each offer beyond just price.



Negotiate with seller, buyer and/or agent.



Accept your home likely will sell for less.

SELLING A HOME IS EASY!*

*If You Work with a Real Estate Agent Who is a REALTOR®

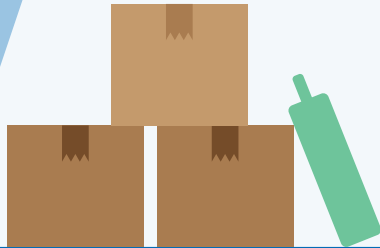
SOME PEOPLE THINK SELLING A HOME IS AS SIMPLE AS:

- Put a sign in your yard
- Let other real estate agents know
- Patiently wait

BUT THERE'S SO MUCH MORE TO IT.

Some of the things a real estate agent who is a REALTOR® helps you with include:

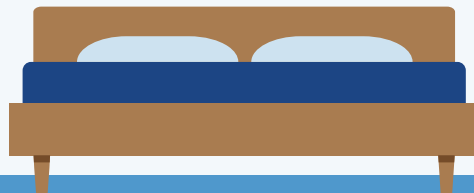
PRE-LISTING



- Research sales activity for past 18 months from local broker marketplaces and public records databases.
- Guide on best market pricing position based on current market.
- Perform exterior curb appeal assessment.
- Address important topics such as odors, clutter, cleanliness, décor neutralization and more.

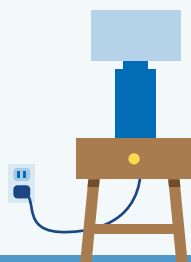
LISTING

- Create detailed list of property amenities.
- Develop and execute marketing plan.
- Coordinate showings with seller and other agents.
- Pull data to compare offers.
- Create plan for pricing strategies accounting for local market conditions.
- Promptly enter price changes on local broker marketplace listing database.
- Prepare contract for buyer.
- Communicate weekly with activity, showings of homes that compete and market movement.
- Follow up with each buyer and agent with timeliness and kindness.
- Have a strong market reputation where agents want to show your home.
- Continue to audit the home to make sure it's market ready.
- Negotiate all offers.



CLOSING

- Help coordinate and review appraisal.
- Audit itemized list of all cost components seller and buyer are to pay.
- Protect trust/earnest money through process.
- Ensure transaction is flowing to avoid unexpected complications.
- Ensure smooth transition with utilities, final walk throughs, inspection repairs and other tasks.
- Coordinate closing process with buyer's agent, lender and closing company.
- Explain technicalities in the final contract.



BUYING A HOME IS EASY!*

*If You Work with a Real Estate Agent Who is a REALTOR®

SOME PEOPLE THINK BUYING A HOME IS AS SIMPLE AS:

- Look at houses online
- Find something you can afford
- Sign some papers

BUT THERE'S SO MUCH MORE TO IT.

Some of the things a real estate agent who is a REALTOR® helps you with include:

GETTING STARTED

- Educate client on home buying process and coordinate a plan.
- Review buyer rep agreement, agree upon representation and negotiate compensation.
- Understand budget and explain what will be needed financially.
- Search local MLS broker marketplaces to find best matches.
- Serve as local housing market expert (e.g., price trends, negotiation trends, community).
- Arrange tours of homes and neighborhoods.

- Decipher public property and tax information.



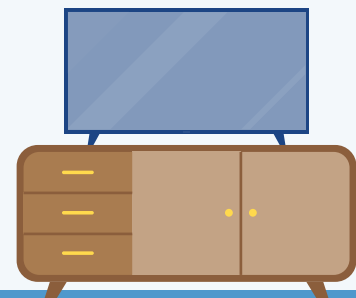
FINDING YOUR HOME

- Research home information that aligns with buyers' interests.
- Prepare buyer to have the most attractive offer in the current marketplace.
- Coordinate professional home inspections, consultations with lenders and necessary property assessments.
- Develop competitive offers and negotiate the best price and terms.
- Represent clients' best interests, advise throughout the negotiation process and close the deal.
- Steward multiple parties and schedules to save buyer time.
- Look beyond décor, flooring and paint colors to other significant aspects of home.



ACHIEVING HOME OWNERSHIP

- Navigate state and federal forms.
- Research mortgage rates, terms and reputable lenders.
- Coordinate with lenders.
- Steward important contract deadlines.
- Provide guidance for walk throughs prior to closing to ensure property condition.
- Work with necessary parties to ensure all contractual terms are completed by closing.
- Advocate for buyer throughout entire process and closing.
- Review buyer's closing statement to ensure accuracy.
- Provide information for everything needed to live in new home.
- Ensure all required actions are complete in advance, so closing day is a celebration, rather than a stressor.
- Remain a lifelong, trusted advisor!



ECONOMICS OF BUYING A HOME

HOW REAL ESTATE BROKER COMPENSATION WORKS BENEFITS BUYERS AND SELLERS ALIKE

The current way brokerage services are paid prevents a greater cost burden that would be especially devastating for first-time and low-income home buyers.

If buyers had to pay real estate broker compensation directly, it would add **thousands of dollars** to an **already costly transaction**.



The typical American household has an average of **\$5,300** in the bank*.

That's a third of the median down payment on a starter home, which is **\$16,100 or 7%** for first-time homebuyers**.



Since most lenders don't allow real estate broker compensation to be financed, every 1% of broker commissions that first-time buyers pay out of pocket would put their home **\$2,300** further out of reach.

*Bankrate inflation-adjusted data from the Federal Reserve 2019 Survey of Consumer Finances

** In 2021, median downpayment was 12% for all buyers, 7% for first-time buyers, (NAR 2020 Profile Home Buyers and Sellers report). Actual dollar amounts based on national median starter home price in Q1 of 2020 according to NAR Q1 First-Time Homebuyer Affordability Index

Rob Hulse

Subject: FW: General Forum Digest for Tuesday October 10, 2023


Subject: General Forum Digest for Tuesday October 10, 2023

24. [Litigation Update](#)

[Reply to Sender via Email](#)

[Reply to Group Discussion](#)



Oct 9, 2023 3:42 PM |  [view attached](#)
[Katie Johnson](#)

Hello, all.

Late last night, Anywhere and RE/MAX filed their proposed settlement agreements with the class action plaintiffs. **The proposed settlement does not change how our case is presented in court**, and I've attached those court filings for your information. While we are currently reviewing the impact, you'll notice that much of what they've agreed to do is already required or accomplished via NAR's Code of Ethics and MLS rules such including refraining from claiming brokerage services are "free", displaying offers of compensation on listings, refraining from using offers of compensation as a factor for filtering listings, and being clear and transparent with consumers about how compensation is negotiable and paid.

These corporate defendants have also agreed to no longer mandate membership in NAR or adherence to the Code of Ethics, thus leaving each franchisee or company owned brokerage free to determine whether REALTOR® association membership works best for them and their agents. While we have always operated under the assumption that brokerages are independent legal entities that make their own business decisions, it remains incumbent upon every REALTOR® association – local, state, and national – to continue to communicate and provide true value to our members.

On a separate note, we wanted to remind you that in July, NAR was asked whether association-owned MLSs could permit zero in the offer of compensation field. We provided the following response and explanation to local, state, and national association leaders and MLSs --

Hello,

As you may have heard, [Bright MLS](#) has announced a change in their Listing Entry system that will allow its users to enter zero as an amount in a listing's cooperative compensation fields. Prior to this update, the cooperative compensation fields in Bright MLS required entry of at least one cent. Some of you have asked, so we wanted to let all of you know that this change is consistent with NAR's MLS Policy.

NAR's policies are designed to ensure information is efficiently distributed to facilitate the transaction of real estate to the benefit of buyers and sellers. So long as cooperating brokers are aware of the offers made by listing brokers, that purpose is achieved. NAR has long said listing brokers and their clients are the ones who determine the amount and makeup of the offer to cooperating brokers. Practically speaking, the difference between one penny and \$0 is negligible, and regardless, those offers are always negotiable. These policies ensure brokers are efficiently sharing information they and their clients need through their local, independent broker marketplaces. Without these policies, brokerages would not know important information about listings

and they would have to rely on piecemeal information collected in inefficient ways that could negatively affect their ability to serve their clients and ultimately the U.S. economy.

In sum, NAR's MLS policy requires participants to communicate an offer of compensation to other MLS participants and that offer can be any amount, including \$0. And to be clear, NAR is not requiring nor encouraging MLSs to change their data fields to permit \$0. We are simply advising that doing so would continue to comply with NAR's MLS policy. NAR has always believed that NAR's MLS guidelines and local broker marketplaces create highly competitive markets, empower small businesses and ensure equitable home ownership opportunities, superior customer service, and greater cost options for all buyers and sellers.

As always, you are welcome to contact me or the NAR MLS policy team narpolicyquestions@nar.realtor to discuss any of your MLS related questions or ideas.

Thanks,

Katie

These are challenging times for our association to be sure. We have faced challenging times before and we will face challenging times again. How we respond in these moments -- how we respond to each other and to our challenges -- defines who we are. I believe we are resilient, we are strategic, and we are good. We have always and will continue to evolve to achieve our mission of protecting and promoting property rights for all people.

More to come on all fronts...

Katie

Katie Johnson
Chief Legal Officer and Chief Member Experience Officer | Member Experience, Engagement and Legal Affairs
NATIONAL ASSOCIATION OF REALTORS® | Chicago, IL
Office: 312.329.8372

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AMENDMENT TO EXCLUSIVE BUYER AGENCY AGREEMENT

For use by members of the Lawrence Board of REALTORS®

This AMENDMENT becomes a part of the EXCLUSIVE BUYER AGENCY AGREEMENT, dated _____, between _____ as principal/buyer (hereinafter referred to as "BUYER") and _____ as BUYER'S Broker (hereinafter referred to as "Broker"),

It is understood and agreed the following changes become effective upon the mutual execution of this document, unless otherwise agreed to in writing between the parties:

BUYER AGENCY AGREEMENT EXPIRATION – Change expiration date to ____/____/____

COMPENSATION – BUYER Agrees to pay BROKER, as compensation for services rendered, a cash fee as follows: _____

CANCELLED – The BUYER and BUYER'S BROKER hereby agree to CANCEL all terms and conditions contained within the Exclusive Buyer Agency Agreement between the undersigned parties. All parties are released from further obligation and/or liability with respect to this agreement now and in the future.

SPECIAL PROVISIONS:

OTHER: _____.

All other terms and conditions of said original agreement remain unchanged and in full force and effect.

BUYER'S Agent: _____
Signature Date

BUYER: _____
Signature Date

BUYER'S Agent: _____
Signature Date

BUYER: _____
Signature Date



AMENDMENT TO EXCLUSIVE RIGHT OF SALE
For use by members of the Lawrence Board of REALTORS®

This AMENDMENT becomes a part of the EXCLUSIVE RIGHT OF SALE agreement, dated _____, between _____ as principal/seller (hereinafter referred to as "SELLER") and _____ as SELLER'S Broker (hereinafter referred to as "Broker"), for the following described real property:

Address: _____

It is understood and agreed the following changes become effective upon the mutual execution of this document, unless otherwise agreed to in writing between the parties:

- LISTING PRICE** – Change List Price to \$ _____.
- EXPIRATION** – Change expiration date to ____/____/____
- AUTHORIZATION TO WITHDRAW FROM MULTIPLE LISTING SERVICE (MLS)**- SELLER acknowledges that the advantages of the Multiple Listing Service have been explained to SELLER but, for personal reasons, SELLER is directing that listing information on SELLER'S property NOT be disseminated to other participants in the Multiple Listing Service. SELLER authorized the Listing Broker to notify MLS of a signed sales contract on the property and authorizes the dissemination of sales information, including selling price, to members of the Multiple Listing Service to be used in establishing market value for other properties. The property will remain listed with LISTING BROKER.

SELLER has been advised that, effective January 1, 2020, the Lawrence MLS has adopted the Clear Cooperation Policy approved by the National Association of REALTORS®. Pursuant to the Clear Cooperation Policy, if a residential property is marketed to the public for sale, it must be submitted to the MLS for cooperation with other MLS participants within one (1) business day of the public marketing. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public.

- CANCELLED** – The SELLER and LISTING BROKER hereby agree to CANCEL all terms and conditions contained within the Exclusive Right of Sale agreement between the undersigned parties. All parties are released from further obligation and/or liability with respect to this agreement now and in the future.
- ACTIVE STATUS** – The property will become 'active' in the Multiple Listing Service of the Lawrence Board of REALTORS®. All information will be available on the Internet Data Exchange Database and displayed on the internet.

OTHER: _____.

All other terms and conditions of said original agreement remain unchanged and in full force and effect.

Listing Agent: _____
Signature Date

SELLER: _____
Signature Date

Listing Agent: _____
Signature Date

SELLER: _____
Signature Date



Rob Hulse

To: Wendy M. Alkire [KREC]
Subject: RE: Quick Question

From: Wendy M. Alkire [KREC]
To: Rob Hulse <Rob@lawrencerealtor.com>
Subject: RE: Quick Question

Hello Rob,

As a State of Kansas agency, we must abide by the Kansas Open Records Act. The Attorney General's office advises the Commission of what must be provided. Short answer to your question, we do not have the authority to keep something confidential in a file so the name of the complainant could be disclosed.

We accept complaints from anyone alleging a violation under our jurisdiction. There have been a few instances where an MLS or Association has filed a complaint or forward to us a complaint they received.

Let me know if you have additional questions.

Wendy Alkire, Deputy Director
Director of Compliance
Kansas Real Estate Commission

From: Rob Hulse <Rob@lawrencerealtor.com>
To: Wendy M. Alkire [KREC]
Subject: Quick Question

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi Wendy –

Quick Question: Does a the name of a reporting licensee get disclosed to the licensee named in a complaint?

Also – our MLS Committee has asked if there have been instances in which a Multiple Listing Service would file a complaint against one of it's own subscribers? I personally think a licensee or the licensee's broker should do the reporting, but our group is asking, so I'm forwarding their question. Have you had instances where a MLS or Association have filed complaints? Thoughts?

Thanks so much for any help you can provide, and I hope you're doing well!
Rob

Rob Hulse, RCE, AHWD
Executive Vice-President
Lawrence Board of REALTORS®