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COASTAL REALTOR®
Newsletter

Official Publication of the Newport Beach Association of REALTORS®



PRESIDENT'S MESSAGE



2024 NBAOR President
Jan Langford

Happy Spring!

As you are aware and have been bombarded with many emails and news headlines, the National Association of REALTORS® has proposed to settle lawsuits across the nation. On Halloween 2023 the Missouri's sellers commission class action lawsuit judgement came in and NAR had lost the hard-fought four year battle. Since the judgement came in, NAR had filed for appeal. While on appeal and after that judgement came in, over two dozen additional seller commission class action lawsuits were filed across the nation, which many refer to as "copycat" lawsuits.

NAR recently announced a comprehensive settlement of the Missouri suit that would put an end to the litigation nationwide if approved. This settlement would change two significant elements of the practice of real estate; 1) a buyer broker must have a signed buyer broker agreement when working with a buyer, and 2) the sellers may not offer a unilateral offer of compensation to the buyer's broker in the Multiple Listing Service.

The fundamentals of the practice of real estate have not changed. Sellers still have the ability to hire a listing agent and pay a commission, which upon negotiation with the listing broker may have the option to offer a buyer broker commission either by paying the buyer broker directly or by being paid by the listing broker. There are several Q&As in this newsletter (pages 27-41), should you need a more detailed look at the proposed settlement changes.

continued on page 3



PRESIDENT'S MESSAGE CONTINUED...

We need to “pivot” and prepare for the two changes potentially coming mid-July. We can do it, we’ve shown we’re flexible in the past, and we can adapt. We all need to understand and use the BRBC (Buyer Representation and Broker Compensation Agreement). We might need to make a telephone call to the listing agent to ask if the seller is offering a buyer broker incentive or visit the listing broker’s website for that information.

CRMLS’s Board of Directors recently approved a new concessions field that will allow input of a percentage or dollar amount, no listing agent comments, and a check box option that states “seller willing to consider buyer concessions if requested in offer”. This should also help answer the question on everyone’s mind.

In addition, NAR is offering the ABR (Accredited Buyer Representative Designation) class for free, at the moment, which can help with buyer negotiations and the Newport Beach Association is offering an education class on the buyer broker forms, taught by our own wonderful teacher Reuben Gulledge. Be sure to sign up for both educational opportunities in order for continued success.

I look forward to seeing you all out in the field!

All my best,

Jan



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Official Publication of the Newport Beach Association of REALTORS®

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Newport Beach, CA 92663
(949) 722-2300

The purpose of the Newport Beach Association of REALTORS® is to be a service and support organization through active participation in establishing programs and services that will enhance and promote the successful business endeavors of its members. With integrity and competence, it will provide a positive link to the local community by cultivating goodwill and protecting the individual rights to own, transfer and use real property.

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Tatum Davis

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Federal law prohibits discrimination
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EQUAL HOUSING OPPORTUNITY

REALTOR®



WELCOME New Members

REALTOR® MEMBERSHIP

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MEMBER TRANSFERS

Monce Carrasco – from Fiv Realty to Berkshire Hathaway Home Serv.
Cara Farley – from The Agency to Carolwood Estates
Dodie Gilbert – from Coldwell Banker to Dodie Gilbert, Broker
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Mia Beatificato
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WELLS FARGO MEMBER PRESIDENT'S CLUB HOME MORTGAGE

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EQUAL HOUSING LENDER

NEWPORT BEACH ASSOCIATION OF REALTORS® AFFILIATE ROSTER



Architect/Builder

NEWPORT RESOURCE MGMT.	RUSH HILL	RUSH@NRMSERVICES.COM	949-939-2570

Escrow

CHARTWELL ESCROW	DIANE ANTHONY	DANTHONY@CHARTWELLESCROW	949-354-1892
FREEDOM ESCROW	JEFF TAYLOR	JEFF@FREEDOMESCROW.COM	714-655-7816
GENERATIONS ESCROW	BRANDI RIVERA	BRIVERA@GENESCROW.COM	714-746-3024
GRANITE ESCROW	DEE ANNA POPE	DPOPE@GRANITEESCROW.COM	949-720-0110
MARINERS ESCROW	FA KARAMZADEH	FA@MARINERSESCROW.COM	949-412-4650
PROMINENT ESCROW	DEVON COHEN	DCOHEN@PROMINENTESCROW.COM	949-870-7200

Health Benefits

BENEFITS STORE, INC.	ROGER SMITH	AFFILIATE@BENEFITSSTORE.COM	925-855-9500

Home Warranty

FIDELITY HOME WARRANTY	ROBYN PRICE	ROBYN.PRICE@FNF.COM	714-726-9171
FIDELITY HOME WARRANTY	MIA BEATIFICATO	MIA.BEATIFICATO@FNF.COM	800-308-1422
FIRST AMERICAN HOME BUYERS PROTECTION	ROSIE POOLE	RPOOLE@FIRSTAM.COM	949-400-7789
HOME GUARD HOME WARRANTY	DAWN NEARY	DNEARY@HGHW.COM	949-842-7921
HOME WARRANTY OF AMERICA	CORTNEY KELLER	CKELLER@HWAHOMEWARRANTY.COM	714-707-0149

Legal

LAGUNA LEGAL MEDIATION SERVICE & DOC.	ELLIE ORTIZ	ELLIE@LAGUNALEGALHELP.COM	949-497-9800

Misc.

HR PAINTING	HUGO ROSALES	HRPAINTING.OC@GMAIL.COM	714-471-8759
NEWPORT HOME SERVICES	ROD PADILLA	RODP321@GMAIL.COM	714-984-6655
NOMADNESS RENTALS	MIKE LICHTENFELD	MIKE@NOMADNESSRENTALS.COM	970-819-1636

Mortgage/Lending

BANK OF AMERICA	AARON PARKS	AARON.PARKS@BOFA.COM	949-691-3648
CITIBANK	STEVE GLASS	STEVE.GLASS@CITI.COM	949-809-2561
CITIBANK	KIRSTYN HUGHES	KIRSTYN.HUGHES@CITI.COM	714-697-2900
CITIBANK	NICHOLAS PETRONIS	NICK.PETRONIS@CITI.COM	949-374-3744
FIRST REPUBLIC BANK	TONI TARTAMELLA	TTARTAMELLA@FIRSTREPUBLIC.COM	714-343-6653
MCH CAPITAL LLC	MAX DAUBNER	MAX@MORTGAGEMAX.CO	619-240-4289
MONARCH COAST FINANCIAL	KEVIN BUDDE	KBUDDE@MONARCHCOASTFINANCIAL.COM	949-422-2075
MUTUAL OF OMAHA MORTGAGE	SEAN SKAGGS	SEAN.SKAGGS@MUTUALMORTGAGE.COM	714-875-7979
REVERSE MORTGAGE EDUCATORS	RYAN KLEIS	RYAN@REVERSEMORTGAGEEDUCATORS.COM	714-609-0196

Continued Mortgage/Lending

UNITED AMERICAN MORTGAGE CORP.	MARK SIMON	MARK@MARKFORMORTGAGE.NET	949-246-5880
U.S. BANK	JOHN FISHER	JOHN.FISHER2@USBANK.COM	909-993-4495
WELLS FARGO HOME MORTGAGE	MORAD RAHEB	MORAD.RAHEB@WELLSFARGO.COM	310-467-4411
WELLS FARGO HOME MORTGAGE	CHRIS RUSSELL	CHRIS.RUSSELL@WELLSFARGO.COM	949-290-3224
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WELLS FARGO HOME MORTGAGE	JOHN MARCHESE	JOHN.MARCHESE@WELLSFARGO.COM	949-429-9011
WELLS FARGO HOME MORTGAGE	JOSH CAPPELLO	JOSH.CAPPELLO@WELLSFARGO.COM	949-292-6767
WELLS FARGO HOME MORTGAGE	SCOTT SPRINGBORN	SCOTT.SPRINGBORN@BMO.COM	949-280-3593

Natural Hazards

FIRST AMERICAN NATURAL HAZARD DISC.	CANDY BABCOCK	CBABCOCK@FIRSTAM.COM	714-309-6447
MY NHD	ROBERTA CURLENDER	ROBERTA@MYNHD.COM	949-322-5220
MY NHD	LINA KING	LINA@MYNHD.COM	949-945-3526

Photography

PREVIEWFIRST	PAOLO BIANCALANI	PAOLO@PREVIEWFIRST.COM	949-527-1702

Staging and Design

PACIFIC STAGING	CASSIDY WILLINGHAM	CASSIDY@PACIFICSTAGING.NET	949-200-7745

Title

CHICAGO TITLE	PETER NOURSE	PETER.NOURSE@CTT.COM	949-463-3999
FIDELITY NATIONAL TITLE	D.J. BIBB	DIBIBB@FNF.COM	949-533-6900
FIRST AMERICAN TITLE INSURANCE	GEORGE SINES	GSINES@FIRSTAM.COM	714-250-4951
FIRST INTEGRITY TITLE COMPANY	CARTER GASKILL	CARTER.GASKILL@FIRSTINTEGRITYTITLE.COM	(949) 923-7584
LAWYERS TITLE	MARTHA GEWERTZ	MGEWERTZ@LTIC.COM	949-500-5884
ORANGE COAST TITLE	SHELLEY ALLARD	SALLARD@OCTITLE.COM	714-553-7377
PACIFIC COAST TITLE COMPANY	CHRISTY COFFEY	CCOFFEY@PCT.COM	949-887-0338
TICOR TITLE	BRYON BASHORE	BRYONBASHORE@TICORTITLE.COM	714-975-3300
TICOR TITLE	NICOLE LEGRAND	NICOLE.LEGRAND@TICORTITLE.COM	939-933-7009
USA NATIONAL TITLE	LISA RUNYON	LRUNYON@USA-NTC.COM	949-933-0693
WFG TITLE	HOPE CARR	HOPE@WFGTITLE.COM	949-400-7642
WFG TITLE	ROBERT TOFFEL	ROBERT.TOFFEL@YAHOO.COM	949-702-3027

Ensure Your Paycheck



How Buyers Agents Get Paid by using forms BRBC, SPBB, and CBC

April 8th 10:00 am - 11:30 am

- How the Buyer Broker Agreement & related forms interact together
- With the NAR settlement possibly taking effect mid July - get up to speed on the forms you'll need to remain successful in your business



with Reuben Gulledge, Esq. Manager, Compass

Newport Beach Civic Center, Community Room
100 Civic Center Drive, Newport Beach, CA 92660

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3:00 -4:30 PM SOCIAL
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PLAYER REGISTRATION $150 includes game and socail)

Please circle # of Players: 1 or 2

Player Full Name_____ Experience Level_____

2nd Player Full Name_____ Experience Level_____

SOCIAL ONLY REGISTRATION $50 includes attendance at social, food, and drinks

# of tickets for social_____

PAYMENT INFORMATION

Name on Card_____ Amount to Charge_____

Credit Card # (Circle Visa or MasterCard)_____

CVC_____ Expiration Date_____ Phone_____

Email_____

EMAIL COMPLETED FORM TO TATUM@NBAOR.COM BY MAY 8TH

CONGRATULATIONS!

NEW MEMBERSHIP CERTIFICATIONS & DESIGNATIONS

Maxine Golden

ABR® Designation

The Accredited Buyer's Representative (ABR®) designation is for real estate buyer's agents who focus on working directly with buyer-clients at every stage of the home-buying process.



Annual Business Report

OCAR Annual Business Report
dba Newport Beach Association of Realtors

Balance Sheet December 31, 2023

	MLS	Association/ Building	Total
Assets			
Cash	$ 98,155	$ 967,525	$ 1,065,680
Accounts Receivable	$ -	$ 85,917	$ 85,917
Inventory	$ 738	$ 7,699	$ 8,436
Prepaid Expenses & Deposits	$ 145,637	$ 121,479	$ 267,116
Total Current Assets	**$ 244,529**	**$ 1,182,620**	**$ 1,427,149**
Net Fixed Assets	$ -	$ 2,806,657	$ 2,806,657
Investments	$ -	$ 1,000	$ 1,000
Intercompany	$ 547,991	$ (547,991)	$ -
Total Assets	**$ 792,521**	**$ 3,442,285**	**$ 4,234,806**

		MLS	Association/ Building	Total
Liabilities				
	Current Liabilities			
	Accounts Payable	$ 43,309	$ 37,166	$ 80,475
	CAR/NAR Payable	$ -	$ 56,187	
	Deferred Revenue	$ 399,495	$ 152,762	$ 552,257
	Other Current Liabilities	$ -	$ 35,914	$ 35,914
	Long Term Liabilities	$ -	$ 1,315,985	$1,315,985
	Total Liabilities	**$ 442,804**	**$ 1,598,013**	**$2,040,817**
Equity				
	Equity Balance	$ 257,642	$ 1,678,245	$1,935,887
	Net Revenue over Expenditure	$ 92,075	$ 166,027	$ 258,102
	Total Equity	**$ 349,717**	**$ 1,844,272**	**$2,193,989**
	Total Liabilities & Equity	**$ 792,521**	**$ 3,442,285**	**$4,234,806**

Monthly Market Report

Orange County

February 2024

Existing SFR Home Sales

770

% Change from Last Year **+12.4%**

Existing SFR Median Price

$1.35M

% Change from Last Year **+16.5%**

Active Listings

1,108

% Change from Last Year **-3.5%**

Market Competition

Median Days on Market	**20**
Sales-to-List Price %	**100.0%**
% of Active Listings with Reduced Prices	**22.8%**

CALIFORNIA ASSOCIATION OF REALTORS®

Monthly Market Report

Newport Beach, California

February 2024

Existing SFR Home Sales

42

% Change from Last Year **+44.8%**

Existing SFR Median Price

$4.52M

% Change from Last Year

+39.2%

Active Listings

193

% Change from Last Year **+19.9%**

Market Competition

Median Days on Market	**48**
Sales-to-List Price %	**97.9%**
% of Active Listings with Reduced Pric es	**24.9%**

CALIFORNIA ASSOCIATION OF REALTORS®

Monthly Market Report

Costa Mesa, California

February 2024

Existing SFR Home Sales

23

% Change from Last Year **+43.8%**

Existing SFR Median Price

$1.64M

% Change from Last Year

+33.9%

Active Listings

38

% Change from Last Year **+8.6%**

Market Competition

Median Days on Market	**46**
Sales-to-List Price %	**99.3%**
% of Active Listings with Reduced Prices	**28.9%**

CALIFORNIA ASSOCIATION OF REALTORS®

Affiliate of the Month



Paolo Biancalani

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Paolo Biancalani and the award-winning PreviewFirst photography team are dedicated to helping clients' listings stand out in Southern California's fiercely competitive property market.

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Catering to seasoned top producers and newcomers entering the luxury real estate sector, PreviewFirst strives to ensure that marketing your listing is seamless and outstanding.

OP-ED: DEBUNKING THE MYTHS OF THE NAR SETTLEMENT

Most of the coverage of the settlement reflects a profound misunderstanding of the real estate business. Here are some common misconceptions and how to explain them accurately.



BUDGE HUSKEY

Budge Huskey is president and CEO of Premier Sotheby's International Realty.

Nearly two weeks ago, the National Association of REALTORS® announced it had entered into a settlement agreement with the class action plaintiffs in what is known as the Burnett vs NAR case, pending final approval by the court.
The basis of the suit is rooted in the most common way in which residential real estate is transacted in the country, which is sellers hiring an agent to represent their interest for a professional fee, and then offering compensation to an agent who brings the buyer as an inducement to get their home sold.

Since the settlement announcement, there have been numerous articles and stories in the media on what this means for buyers and sellers. Regrettably, most reflect a profound lack of understanding of the real estate business as well as mistaken claims. In these next few minutes, I'd like to share some of the statements I've read, and then share a more accurate perspective.

1) The settlement forces real estate brokers to reduce their compensation. False.

The settlement in no way establishes any standard or limitation on REALTORS® for what they may charge, nor the services they elect to deliver. REALTOR® fees have always been fully negotiable, and there has never been any collective bargaining or collusion. REALTORS® may cooperate on transactions toward a common goal, yet are fiercely independent and highly competitive with one another. In every market, you will find real estate representation at almost every price, and just as many different levels of service and competency. I would argue there is more variation in real estate pricing than in almost any other product or service one will ever purchase. Now there are comparisons to what fees are in the U.S. vs. some other countries, yet in many of the countries referenced the real estate professional is an employee with benefits and often salaries with bonuses.

OP-ED: DEBUNKING THE MYTHS OF THE NAR SETTLEMENT

Most of the coverage of the settlement reflects a profound misunderstanding of the real estate business. Here are some common misconceptions and how to explain them accurately.

The vast majority of real estate professionals in the U.S. are 100% performance paid through commissions.

2) The settlement will, for the first time, allow sellers to no longer pay compensation for an agent bringing the buyer. False.

There has never been any obligation for a seller to pay buyer agent compensation at any time, yet it has been a historical practice that's worked exceedingly well since the advent of modern residential real estate. (The settlement) merely prohibits any reference of buyer compensation from the seller on association-owned MLS systems. The reality is that today, well before the intended settlement date of this coming July, any listing could be displayed on the MLS whether it offered buyer agent compensation or not.

3) The settlement will prohibit sellers from paying a commission to a buyer's agent. False.

The practice of whether to pay a buyer's agent is totally a seller's decision and nothing changes in terms of options. Many of us would suggest that the most important outcome is the successful sale of the property on the seller's terms, and having the greatest incentive to buyers agents to show and sell the home the best way to achieve their goals.

4) The settlement will now relieve sellers of any financial burden of buyer agent fees. False.

Although sellers can elect not to pay any buyer agent compensation, that doesn't mean they will avoid the economics. Buyers may easily write into any offer a contingency requiring that the seller cover the cost, or may request other concessions such as closing cost assistance in the dollar amount they are paying their representative.

OP-ED: DEBUNKING THE MYTHS OF THE NAR SETTLEMENT

Most of the coverage of the settlement reflects a profound misunderstanding of the real estate business. Here are some common misconceptions and how to explain them accurately.

5) The settlement ultimately reduces the total cost of transaction services as sellers will no longer pay buyer agent compensation. False.

Should sellers now choose to compensate only the listing agent, it merely means that buyers, rather than sellers, will now have to pay for their own representation if they don't require the seller to pay as a contingency of the contract. REALTOR® services are not free, nor should they be. Just because two parties may now share the cost of services rather than one doesn't mean the total cost of the transaction has been lowered.

6) The settlement will serve to meaningfully lower real estate prices and make homeownership affordable again. False.

General values in real estate are determined by the fundamentals of supply and demand, not REALTORS®. Yes, the commission represents an expense of a transaction, yet these also include title fees, closing fees, mortgage-related expenses, property taxes, association fees, etc. Should real estate commissions theoretically be reduced by 1% as a result of compression, that $500,000 home will now only cost $495,000. Hardly the difference as to whether someone may afford the home or not. The real reason homeownership is increasingly less affordable is that home values have risen dramatically in many markets in recent years.

7) The settlement is a fantastic win for buyers who will now be able to negotiate the fee for representation. Highly questionable.

For those who have purchased one or more homes over the years, it is more than likely you were quite happy to have the seller compensate your agent so you didn't have to. For buyers who had to scrape up enough money for the down payment and closing expenses, having the commission paid by the seller and incorporated into the price of the home allowed the buyer to finance the amount over time rather than coming up with thousands of additional dollars at closing. The reality is that most mortgages are ultimately sold to Fannie and Freddie, and both have no provisions for commissions to be financed. In fact, the VA loan program expressly prohibits the borrower from paying any form of commission in a real estate transaction.

OP-ED: DEBUNKING THE MYTHS OF THE NAR SETTLEMENT

Most of the coverage of the settlement reflects a profound misunderstanding of the real estate business. Here are some common misconceptions and how to explain them accurately.

So just how is a veteran who has honorably served his or her country now better off without representation? I don't think so.

8) The settlement will result in significant restitution to real estate consumers who were "harmed" over recent years in their transaction by REALTORS®. False.

The settlement figure is huge, yet when one divides the amount by the number of potentially qualifying consumers it works out to about ten bucks per person. The only people truly profiting are the class action attorneys who have submitted a request to the court for over $80 million in legal fees.

As a real estate professional for over 40 years, I have worked with thousands of REALTORS® who represent the public in what is most likely their largest investment. While being the first to acknowledge those for whom the industry would be better off without, they are in the minority. What I have consistently witnessed is the incredibly hard work, countless situations where the agent has gone above and beyond to do things and pay for things he or she shouldn't, manage complex transactions and calm emotions, build relationships based on trust and care, help buyers realize their dream and sellers to maximize their return and turn the page to the next chapter, and yes, sometimes serve as housekeepers, caretakers, repairmen and countless other roles with their sellers and buyers always being their primary concern. Every day I am proud to work with them, and the public is better off because of them.

The brokerage community has always adapted when necessary to best represent buyers and sellers in the sale of real estate whenever there is a shift in the environment, and no doubt it will do so again. In the interim, parsing between truth and fiction should be an expectation for all as they draw their own conclusions.

CALIFORNIA ASSOCIATION OF REALTORS®

QUICK GUIDE

NAR Proposed Class Action Settlement

Background

For years, the National Association of REALTORS® has defended lawsuits filed in different jurisdictions alleging that the MLS mandatory offer of compensation was an illegal price fixing agreement in violation of federal anti-trust laws. The first of these cases to reach a jury verdict was decided in Missouri in October 2023. The jury found NAR and various brokerage companies liable for $1.8 billion. While the verdict was awaiting court approval, over two dozen copycat lawsuits were filed in different cities throughout the nation. On March 15, 2024, NAR announced a comprehensive settlement of the Missouri suit that would put an end to the litigation nationwide if approved.

What are the most significant elements of the Proposed Settlement? When will the agreement be final?

- NAR agreed to pay over $400 million, spread out over 4 years.
- NAR agreed that any REALTOR® owned MLS would prohibit seller's agents from using the MLS to make an offer of compensation to agents representing buyers who purchased the seller's property.
- Buyers' agents would be required to have a written representation agreement with their buyer clients.
- Agents working with buyers would be required to have a written representation agreement before showing properties to buyers.
- Buyers' agents may not be paid more than the amount specified in a representation agreement.
- It is expected that the proposed settlement will be approved by the applicable court and NAR will take actions to implement its terms by mid-July 2024.

How will buyers' agents get paid? Can sellers' agents still offer to compensate them for bringing a buyer?

- Buyers' agents can get paid directly from buyer clients, according to the terms of their representation agreement.
- Buyers' agents can get paid directly from the seller if a term in the buyer's offer asks the seller to pay the buyer's agent and the offer is accepted by the seller.
- Buyers' agents can get paid by the seller's agent if an agreement has been reached with the seller's agent.
- Seller's agents can offer to compensate buyers' agents without using the MLS. Any such offer of compensation can be made directly to the buyer's agent or may be conveyed elsewhere, such as on an agent's website.

Should a seller's agent's offer of compensation be documented?

In California, compensation agreements between real estate licensees do not need to be in writing to be enforceable. However, in the absence of a writing, establishing who agreed to pay whom, how much, when, and under what circumstance can lead to disputes. A cooperating broker compensation agreement (C.A.R. Form CBC) documents the terms of the agreement between the seller's agent and buyer's agent. The CBC, revised June 2021, is being revised to reflect the proposed settlement and will be released by C.A.R. before the Settlement implementation date.

Does C.A.R. have a buyer representation agreement?

Yes, the Buyer Representation and Broker Compensation Agreement (C.A.R. Form BRBC). The BRBC, revised 12/22, is being revised to reflect the proposed settlement and will be released by C.A.R. before the Settlement implementation date.

Can an agent show a property to a buyer who shows up at an open house without an agent?

An agent showing property, or giving a tour to a buyer, must have a written representation agreement. An agent holding an open house must either have a buyer sign such an agreement or document the buyer's desire to be unrepresented. The BRBC can be used. C.A.R. is creating a new form to be used at open houses, and the form will be released by C.A.R. before the Settlement implementation date.

For more information, visit NAR's resource page: https://www.nar.realtor/the-facts

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CITY OF NEWPORT BEACH NEWS

Community Members:



I have good news for Newport Beach residents and business owners with properties in flood hazard areas: you will see further discounted rates for your flood insurance policies beginning October 1. The Federal Emergency Management Agency (FEMA) recently upgraded Newport Beach's flood insurance classification under the Community Rating System (CRS) from a Class 7 to a Class 6. This means that premiums for flood insurance will be discounted by an additional 5%, for a total reduction of 20%.
All policies issued or renewed on or after October 1 will qualify for the additional discounts on flood insurance premiums.

This applies to all homes and businesses with government-backed mortgages in special flood hazard areas that are required to have flood insurance. Other homes and businesses outside of the special flood hazard areas, with flood zone designations starting with X, will be eligible for a 10% discount on flood insurance premiums.
The CRS is an incentive program that recognizes and encourages community floodplain management practices that exceed the minimum requirements of the National Flood Insurance Program. By implementing measures that go above and beyond the baseline standards, communities like Newport Beach are better prepared for flood events and can qualify for lower flood insurance rates for residents and businesses.
This achievement is a testament to Newport Beach's ongoing efforts to mitigate flood risk and create a more sustainable, resilient community.
For more information in the City's flood hazard area designations, and to see which discounts you may qualify for, please visit our **map viewer** or enter your address in the **"Which Flood Zone is My Property In?"** tool on our website.

City Manager, Grace K. Leung

CITY OF NEWPORT

BEACH NEWS

ASSEMBLYMEMBER DIXON CELEBRATES BALBOA ISLAND FERRY WIN



SACRAMENTO – Assemblymember Diane Dixon (R-Newport Beach) is pleased to share that Newport Beach's historic Balboa Island Ferry has been offered a $7.9 million grant to aid in the required electrification of their fleet.
"This is a positive step forward," said Assemblymember Dixon. "This funding will provide significant financial support to a small business struggling to keep up with state regulations."

The California Air Resource Board (CARB) passed regulations that require the Ferry to renovate all three of its vessels with electric motors by 2026. For the past year, the Ferry has applied for multiple sources of funding offered by grant programs through CARB, including the Advanced Technology Demonstration and Pilot Project Program, in order to accomplish electrification goals.
"When Seymour Beek called me in January 2023 I promised to assist however I could," said Assemblymember Dixon, "These grant dollars are one important piece to saving the Ferry. It is an iconic fixture for Assembly District 72 and Southern California. I can't imagine the negative impact it would have on the region if it were to disappear."

The Ferry worked through the South Coast Air Quality Management District (SCAQMD) to submit the application. This funding is subject to resolution of some final items and the SCAQMD board approval. They plan to work with Aurora Marine Design and Green Yachts to convert their operations to zero-emission. The total estimated cost to convert the three ferry boats is $13 million.
Check out CARB's award letter here.



CITY OF COSTA MESA NEWS

The Costa Mesa City Council is currently seeking one resident to serve on the Planning Commission:

The Planning Commission functions as an advisory body to the City Council on issues related to the long-term growth and development of the community, on requests for general plan amendments, rezones, specific plans, environmental impact reports and amendments to the City's Zoning Ordinance.

The Planning Commission has authority to take final action on a variety of planning applications, including conditional use permits, variances, planned development projects, and tentative tract and parcel maps. The Commission meets on the second and fourth Monday of each month. The City is recruiting for one member (Appointment by Council Member Arlis Reynolds), for a term expiration of January 2027. For further information, contact Gladys Gonzalez at (714) 754-5327.

Application Process – Residents who are interested in getting involved in local government are encouraged to complete a Commission Application Form from the City Clerk's Office or from the City's website (www.costamesaca.gov/apply).

The completed application may be submitted online; mailed to Costa Mesa City Clerk at Post Office Box 1200, Costa Mesa, California, 92628-1200; emailed to cityclerk@costamesaca.gov; or hand-delivered to the City Clerk's Office at City Hall, 77 Fair Drive, Costa Mesa. The deadline is 5 p.m., Friday, April 5, 2024. The appointment is tentatively scheduled for the April 16, 2024 City Council meeting.

TAKE ACTION NOW

FOR A MORE

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Commemorate the Fair Housing Act—advocate for accountability, culture change and training. Elevate your business, advance homeownership and expand opportunity.

NAR

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LEADING THE WAY...® IN REAL ESTATE

FAIR HOUSING DAY

THE PAST, PRESENT AND FUTURE.



APRIL 16, 2024

DOUBLETREE BY HILTON HOTEL ONTARIO AIRPORT

C.A.R.'s Fair Housing Day is back!

Registration is now open for C.A.R.'s Third Annual Fair Housing Day event. For those of you who haven't joined us the last two years, this is a free event put on to help C.A.R. members learn more about California's expansive and continuously changing fair housing laws.

FAIR HOUSING | CALIFORNIA ASSOCIATION OF REALTORS®





Learn During The Day

Hear from fair housing experts on topics related to inclusive advertising, housing discrimination, disabilities, algorithmic and AI bias in tech and much more.

Have Fun For A Good Cause At Night

Immediately following Fair Housing Day, attendees can join us for the HAF Casino Night Fundraiser that goes towards our Pathway To Homeownership Closing Cost Assistance Grant Program.

SIGN UP HERE

We hope you can join us on April 16 in Ontario, CA for these critical conversations on making the dream of homeownership possible for all Californians. Click here to register for this free event, the paid optional keynote lunch and the HAF Casino Night Fundraiser.

FAIR HOUSING | CALIFORNIA ASSOCIATION OF REALTORS®

NAR Settlement FAQs

Last Updated: March 22, 2024

1. **Why did NAR enter into this settlement?**
   - Since the litigation began, we have worked consistently to reach a resolution with the plaintiffs.
   - We have always wanted to reduce the significant strain on our members and provide a path forward for the industry and, from the beginning of this litigation, we had two goals:
     - Secure a release of liability for as many of our members, associations, and MLSs as we could; and
     - Preserve the choices consumers have regarding real estate services and compensation.
   - This proposed settlement achieves both of those goals and provides a path for us to move forward and continue our work to preserve, protect, and advance the right to real property for all.

2. **What are the key terms of the agreement?**
   - **Release of liability**: The agreement would release NAR, over one million NAR members, all state/territorial and local REALTOR® associations, all association-owned MLSs, and all brokerages with an NAR member as principal whose residential transaction volume in 2022 was $2 billion or below from liability for the types of claims brought in these cases on behalf of home sellers related to broker commissions.
     - NAR fought to include all members in the release and was able to ensure more than one million members are included.
     - Despite NAR's efforts, agents affiliated with HomeServices of America and its related companies—the last corporate defendant still litigating the *Sitzer-Burnett* case—are not released under the settlement, nor are employees of the remaining corporate defendants named in the cases covered by this settlement.
   - The agreement provides a mechanism for nearly all brokerage entities that had a residential transaction volume in 2022 that exceeded $2 billion and MLSs not wholly owned by REALTOR® associations to obtain releases efficiently if they choose to use it.

     Compensation offers moved off the MLS: NAR has agreed to put in place a new rule prohibiting offers of compensation *on the MLS*. Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. And sellers can offer buyer concessions on an MLS (for example—concessions for buyer closing costs). This change will go into effect in mid-July 2024.

     Written agreements for MLS participants acting for buyers: While NAR has been advocating for the use of written agreements for years, in this settlement we have agreed to require MLS participants working with buyers to enter into written agreements with their buyers. This change will go into effect in mid-July 2024.

     Settlement payment: NAR would pay $418 million over approximately four years. This is a substantial sum, and it will be incumbent on NAR to use our remaining resources in the most effective way possible to continue delivering on

our core mission. NAR will not change membership dues for 2024 or 2025 because of this payment.

NAR continues to deny any wrongdoing: NAR has long maintained — and we continue to believe — that cooperative compensation and NAR's current policies are good things that benefit buyers and sellers. They promote access to property ownership, particularly for lower- and middle-income buyers who can have a difficult-enough time saving for a down payment. With this settlement, NAR is confident it and its members can still achieve all those goals.

3. **Does this settlement mean that NAR is admitting that plaintiffs' allegations are true?**
   - No. The settlement makes clear that NAR continues to deny any wrongdoing in connection with the Multiple Listing Service (MLS) cooperative compensation model rule (MLS Model Rule).
   - It has always been NAR's goal to resolve this litigation in a way that preserves consumer choice and protects our members to the greatest extent possible. This settlement achieves both of those goals.
   - This agreement significantly reduces liability nationwide for over one million NAR members, all state/territorial and local REALTOR® associations, association-owned MLSs, and all brokerages with an NAR member as principal that had a residential transaction volume in 2022 of $2 billion or below. Ultimately, continuing to litigate would have hurt members and their small businesses.
   - The agreement provides a path forward for our industry and NAR.

4. **What if an agent has different releases under the settlement (e.g., moved between brokerages?) Are they covered by the release in this settlement agreement?**
   - The release covers most NAR members for the entire time period, and even if an agent is not covered for some of the time period, they may be covered for others for the time they were not affiliated with HomeServices and its related companies.

5. **By changing the cooperative compensation policy, aren't you admitting that it was problematic?**
   - No. The settlement makes clear that NAR continues to deny any wrongdoing in connection with the Multiple Listing Service (MLS) cooperative compensation model rule (MLS Model Rule).
   - NAR has long maintained — and we continue to believe — that cooperative compensation and NAR's current policies are good things that benefit buyers and sellers. They promote access to real property ownership, particularly for lower- and middle-income buyers who can have a difficult-enough time saving for a down payment. Real estate laws in many states authorize offers of compensation.
   - With this settlement, NAR is confident it and its members can still achieve all those goals.

6. **Is it possible for offers of compensation to be conveyed through channels other than the MLS?**
   - Yes. Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. And sellers can offer buyer concessions on an MLS (for example—concessions for buyer closing costs).

7. **Will this prohibition save money for sellers or buyers?**
   - As NAR has maintained throughout the litigation, nothing in NAR's current policies (including the MLS Model Rule) has increased costs for buyers or sellers.
   - This settlement would preserve the choices consumers have regarding real estate services and compensation. After the new rule goes into effect, listing brokers and sellers could continue to offer compensation for buyer broker services, but such offers could not be communicated via the MLS.
   - The settlement expressly provides that sellers may communicate seller concessions — such as buyer closing costs — via the MLS provided that such concessions are not conditioned on the use of or payment to a buyer broker.

8. **How does the settlement affect MLSs?**
   - The agreement would release association-owned MLSs from liability for the types of claims brought in these cases on behalf of home sellers related to broker commissions.
   - While the release excludes MLSs that are not wholly owned by REALTOR® associations, the agreement provides a mechanism for those MLSs to obtain releases efficiently if they choose to use it.
   - This mechanism includes opting into the MLS practice changes that are a part of the agreement and paying a per-subscriber fee to the Settlement Fund.
   - NAR has agreed to put in place a new rule prohibiting offers of compensation on the MLS. This change will go into effect in mid-July 2024.
   - Additionally, we have agreed to require MLS participants working with buyers to enter into written agreements with their buyers. This change will also go into effect in mid-July 2024.

9. **How does the settlement affect home sellers and home buyers?**
   - This settlement would preserve the choices consumers have regarding real estate services and compensation.
     - After the new rule goes into effect, listing brokers and sellers could continue to offer compensation for buyer broker services, but such offers could not be communicated via the MLS.
     - MLS participants acting for buyers would be required to enter into written agreements with their buyers before touring a home. These agreements can help consumers understand exactly what services and value will be provided, and for how much.

10. **How does the settlement affect corporate brokerages and any brokerages that are carved out from the release?**
    - The agreement provides a mechanism for nearly all brokerage entities that had a residential transaction volume in 2022 that exceeded $2 billion and MLSs not wholly owned by REALTOR® associations to obtain releases efficiently if they choose to use it.
    - While we would have preferred to protect all industry players, ultimately NAR could not persuade the plaintiffs to include the largest brokerages, particularly given the significant settlements that other corporate defendants have already reached.

11. How will buyer brokers get paid now?

- We have long believed that it is in the interests of the sellers, buyers, and their brokers to make offers of compensation — but using the MLS to communicate offers of compensation would no longer be an option.
- Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals.
- The types of compensation available for buyer brokers would continue to take multiple forms, depending on broker-consumer negotiations, including but not limited to:
    - Fixed-fee commission paid directly by consumers
    - Concession from the seller
    - Portion of the listing broker's compensation
- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they serve.

12. Why does the release of liability carve out some co-defendants and some of their affiliated agents?

- NAR fought to include all members in the release and was able to ensure more than one million members were included.
- Despite NAR's efforts, agents affiliated with HomeServices of America and its related companies—the last corporate defendant still litigating the *Sitzer-Burnett* case—are not released under the settlement, nor are employees of the remaining corporate defendants named in the cases covered by this settlement.
- Plaintiffs would not agree to include these members and employees of the corporate defendants in the NAR's release
- NAR secured in the agreement a mechanism for nearly all brokerage entities that had a residential transaction volume in 2022 that exceeded $2 billion and MLSs not wholly owned by REALTOR® associations to obtain releases efficiently if they choose to use it.

13. How will NAR fund the settlement?

- One of the critical advantages of this agreement is that NAR would be able to pay the settlement amount over time.
- We will determine how to allocate funds as they become due, working closely with our Finance Committee.

14. How does this settlement change NAR's value proposition? Why should real estate professionals continue to be NAR members after this news?

- We are confident that this agreement provides a path for NAR to move forward and continue our work to preserve, protect, and advance the right to real property for all.
- NAR fought to include all members in the release and was able to ensure more than one million members were included.

- We will continue to deliver unparalleled value to, and advocacy on behalf of, REALTORS®, including through our learning opportunities and resources, research, and member tools.

15. What is the value of an MLS?

- MLSs have always provided significant value beyond communicating offers of compensation.
- MLSs:
    - Enable comprehensive marketplaces: Access to inventory and widespread advertising incentivizes local broker participation.
    - Ensure reliable data access: NAR guidelines for local MLS broker marketplaces enable hubs of trusted, verified information where all participants have equitable access.
    - Create connections: Local MLS broker marketplaces create the largest opportunity for connections between real estate agents with properties to sell and those with clients looking to buy.
    - Advance small business: Compiling housing information that is accessible to all businesses, in one place, allows smaller real estate brokerages to compete with larger ones.
    - Encourage entrepreneurship: Because of lower barriers to entry enabled by local MLS broker marketplaces, new market entrants can advance technology, consumer service and other innovations.

16. What should listing brokers advise their clients about the prohibition of offers of compensation on an MLS?

- Listing brokers should inform their clients that offers of compensation would no longer be an option on an MLS.
- This change will not prevent offers of cooperative compensation off an MLS. And it will not prevent sellers from offering buyer concessions on an MLS (for example – concessions for buyer closing costs).
- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they serve.

17. Who at NAR signed off on the settlement and was the decision to settle subject to proper NAR governance procedures?

- The settlement was signed off by NAR's Leadership Team, in consultation with outside legal and financial experts, and in accordance with NAR's governance procedures.
- Throughout the settlement process, we engaged with a diverse range of members and considered their perspectives and interests while fighting to protect all industry players as best we could.
- As is common in negotiating a complex settlement, there is a need to maintain confidentiality and effectively navigate complex legal considerations, which restricted the extent of the information that NAR could share more broadly.

18. Why was prohibiting the publication of compensation offers in the MLS part of the settlement?

- While NAR has long maintained — and we continue to believe — that cooperative compensation and NAR's current policies are good things that benefit buyers and sellers, we also acknowledge that continuing to litigate would have hurt members and their small businesses, so have agreed to put in place a new rule prohibiting offers of compensation *on the MLS*.
- This is consistent with NAR's long-maintained position that prohibiting all offers of cooperative compensation entirely would harm consumers and be inconsistent with real estate laws in the many states that authorize them.
- We believe this agreement provides a path forward for our industry and NAR.

19. Is it possible for offers of compensation to be conveyed through channels other than the MLS?

- Yes. Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. And sellers can offer buyer concessions on an MLS.

20. How does the settlement affect state/territorial and local associations?

- The agreement would release all state/territorial and local REALTOR® associations from liability for the types of claims brought in these cases on behalf of home sellers related to broker commissions, and would also require their compliance with the practice changes agreed to in the settlement.

21. Are institutes, societies, and councils affiliated with NAR included in the release in the settlement agreement?

- Yes.

22. Do association-owned MLSs need to do anything to be covered by the release?

- Yes. Association-owned MLSs need to execute an appendix to the agreement in which they agree to abide by the practice changes in the agreement.
- They will have 60 days to execute the appendix.

23. How will offers of compensation be communicated if brokers can't use MLSs? Doesn't this just make broker compensation less transparent?

- Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. And sellers can offer buyer concessions on an MLS (for example—concessions that can be used for buyer closing costs).
- The settlement does not change the ethical duties that NAR members owe their clients.
- REALTORS® are always required to protect and promote the interests of their clients and treat all parties in a transaction, honestly (Article 1, COE).
- NAR members will continue to use their skill, care, and diligence to protect the interests of their clients.
- NAR remains dedicated to promoting transparency in the marketplace and working to ensure that consumers have access to comprehensive, equitable, transparent,

and reliable property information, as well as the ability to have affordable professional representation in their real estate transactions.

24. How quickly do you expect the settlement to be reviewed and/or approved by the court?

- We can expect the process of court review to take several months or more.
- There are strong grounds for the court to approve this settlement because it is in the best interests of all parties and class members.

25. What were the key factors that influenced NAR's decision to choose the legal path it did for the settlement?

- NAR explored settling throughout the litigation and also carefully considered the other legal options available to us. These included:
    - **Appealing**: A win on appeal would only have addressed the verdict in the *Sitzer-Burnett* case (not any of the copycat cases) and may only have resulted in a new jury trial, leaving members and consumers with continued uncertainty.
    - **Chapter 11 reorganization**: In theory, Chapter 11 would have enabled NAR to eliminate its own liabilities while pursuing an appeal of the *Sitzer-Burnett* verdict. But we believe that would have left members with continued uncertainty and potential liability risk. Chapter 11 would also have paused the litigation against NAR but not the other defendants in the cooperative compensation cases.
- Ultimately, while NAR continues to believe that it is not liable for the home seller claims related to broker commissions and that we have strong arguments challenging the *Sitzer-Burnett* verdict, we decided to reach this settlement to put claims to rest for over one million NAR members and other parties who would be released under the agreement.

26. In what ways did NAR attempt to include all members in the settlement process, and what were the limitations?

- Throughout the settlement process, we engaged with a diverse range of members and considered their perspectives and interests while fighting to protect all industry players as best we could.
- As is common in negotiating a complex settlement, there is a need to maintain confidentiality and effectively navigate complex legal considerations, which restricted the extent of the information that NAR could share more broadly.

27. What was NAR's overarching strategy with the settlement and why did NAR choose to not more actively advocate for its position in the public domain during the legal negotiations?

- Since the litigation began, we have consistently worked to reach a resolution with the plaintiffs.
- In the months since the *Sitzer-Burnett* verdict, we redoubled those efforts.
- As is common in negotiating a complex settlement, there is a need to maintain confidentiality and effectively navigate complex legal considerations, which restricted the extent of the information that NAR could share more broadly.

- We have always wanted to reduce the significant strain on our members and provide a path forward for the industry and, from the beginning of this litigation, we had two goals:
    - Secure a release of liability for as many of our members, associations, and MLSs as we could; and
    - Preserve the choices consumers have regarding real estate services and compensation.
- This proposed settlement achieves both of those goals and provides a path for us to move forward and continue our work to preserve, protect, and advance the right to real property for all.
- Ultimately, while NAR continues to believe that it is not liable for the home seller claims related to broker commissions and that we have strong arguments challenging the *Sitzer-Burnett* verdict, we decided to reach this settlement to put claims to rest for over one million NAR members and other parties who would be released under the agreement.
- NAR has been proactive in publicly advocating our position throughout the litigation. We have published multiple op-eds and provided our perspective to various news outlets reporting on NAR and the challenges our industry faces.
- We have also consistently updated Competition.Realtor—our online hub of information about how REALTORS® and local MLS broker marketplaces create competitive, efficient, pro-consumer markets—with new information, materials, and FAQs pertinent to the litigation.

28. Why is NAR paying so much more to settle than the corporate defendants did?

- This settlement was heavily negotiated and is based on NAR's ability to pay.
- NAR has secured a release of liability for over one million NAR members, all state/territorial and local REALTOR® associations, all association-owned MLSs, and all brokerages with an NAR member as principal that had a residential transaction volume in 2022 of $2 billion or below.
- There are strong grounds for the court to approve this settlement because it is in the best interests of all parties and class members.

29. Does the settlement affect NAR's ability to continue operating?

- We are confident that this agreement provides a path for us to move forward and continue our work to preserve, protect, and advance the right to real property for all.
- The settlement amount is a substantial sum, and it will be incumbent on NAR to use our remaining resources in the most effective way possible to continue delivering on our core mission.
- The Finance Committee and Strategic Planning Committee will remain critical in reviewing and providing guidance about NAR's operating budget to help ensure we will continue to deliver unparalleled value to and advocacy on behalf of REALTORS®, including through our learning opportunities and resources, research, and member tools.

30. Can NAR use reserves to pay for the settlement? If so, how much?

- This settlement was heavily negotiated, and the amount is based on NAR's ability to pay.

- One of the critical advantages of this agreement is that NAR would be able to pay the settlement amount over time.
- We will determine how to allocate funds as they become due, working closely with our Finance Committee.

31. What does this settlement mean for NAR advocacy efforts? Is there still funding available for those efforts?

- One of the critical advantages of this agreement is that NAR would be able to pay the settlement amount over time.
- The settlement amount is a substantial sum, and it will be incumbent on NAR to use our remaining resources in the most effective way possible to continue delivering on our core mission.
- The Finance Committee and Strategic Planning Committee will remain critical in reviewing and providing guidance about NAR's operating budget to help ensure we will continue to deliver unparalleled value to, and advocacy on behalf of, REALTORS®, including through our learning opportunities and resources, research, and member tools.

32. Will NAR raise dues or levy an assessment on members to fund the settlement?

- NAR will not change membership dues for 2024 or 2025 because of this payment.

33. Are independent MLSs affected by the prohibition of publishing compensation offers on the MLS?

- Independent MLSs are not required to prohibit offers of compensation on the MLS pursuant to the agreement unless they choose to opt into the settlement, in which case they will need to agree to the practice changes in the agreement and pay a per-subscriber fee to the Settlement Fund.

34. Does this prohibition affect the compensation amount paid to the listing broker?

- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they represent.

35. How does this affect the existing listing agreements that authorize an offer of compensation to be made in the MLS?

- After the new rule goes into effect, listing agreements should be amended to reflect that offers of compensation cannot be communicated via the MLS.
- The settlement expressly provides that sellers may communicate seller concessions — such as buyer closing costs — via the MLS provided that such concessions are not conditioned on the use of or payment to a buyer broker.

36. How would this prohibition affect pending transactions?

- The practice changes will go into effect in mid-July 2024.

37. What steps will buyers' agents need to take to ensure they are being paid for their services?

- NAR has long encouraged its members to use written agreements because they help consumers understand exactly what services and value will be provided, and for how much.
- In fact, the settlement provides that MLS participants working with buyers must enter into written agreements with those buyers before touring a home.
- These agreements can help consumers understand exactly what services and value will be provided, and for how much.
- The types of compensation available for buyer brokers would continue to take multiple forms, including but not limited to:
    - Fixed-fee commission paid directly by consumers
    - Concession from the seller
    - Portion of the listing broker's compensation
- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they represent.

38. Does this mean buyers won't have to use a buyer broker to purchase a property?

- As always, the consumer chooses whether to use a real estate professional. Research has confirmed that consumers find great value in the services provided by a buyer broker, and we continue to believe it is imperative for buyer brokers to clearly articulate what services and value they are providing to consumers.

39. Can a buyer request the listing broker to pay compensation to the buyer broker?

- Offers of compensation could continue to be an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. And sellers can offer buyer concessions on an MLS (for example—concessions for buyer closing costs).
- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they serve.

40. What is the mechanism for brokerages with residential transaction volume in 2022 that exceeded $2 billion to obtain releases?

- NAR secured in the agreement a mechanism for nearly all brokerage entities that had a residential transaction volume in 2022 that exceeded $2 billion to obtain releases efficiently if they choose to use it. However, the remaining defendants in the actions covered by the Agreement cannot use the opt-in mechanism.
- Broadly speaking, the opt-in provides two paths:
    - Option 1: A brokerage can elect to pay an amount based on a predetermined formula based on that brokerage's residential transaction volume.
    - Option 2: A brokerage can elect to participate in non-binding mediation within 110 days following preliminary approval of the settlement.
    - Brokerages can also choose not to participate in this settlement.
- All agreements reached through this mechanism would be subject to court approval.

41. What is the mechanism for non-association MLSs to obtain releases?

- For MLSs that are not wholly owned by a REALTOR® association, the agreement includes a mechanism to obtain a release efficiently if they so choose.

- Broadly speaking, the agreement provides two paths:
    - Option 1: The MLS can elect to pay an amount based on a pre-determined formula based on number of MLS subscribers.
    - Option 2: The MLS can elect to participate in non-binding mediation within 110 days following preliminary approval of the settlement.
- Under both options, participating non-association MLSs would agree to be bound by the practice changes set forth in the settlement agreement, including and not limited to the adoption of a rule prohibiting offers of compensation on that MLS.
- Non-association MLSs can also choose not to participate in this settlement.

42. Does the fact that the release does not cover everybody mean that NAR has left large corporate brokerages and affiliated agents to fend for themselves?

- Absolutely not.
- NAR fought to include as many people and companies in the release as possible and achieved a release for everyone it could. Over one million members are covered, as are tens of thousands of REALTOR® businesses.
- The scope of the release makes clear that NAR looked out for its members. Ultimately, NAR was able to ensure that agents, even those at brokerages that are not covered, are among the more than one million members released.
- But, despite NAR's efforts, plaintiffs would not agree to include everybody.
- Those that are not released—the largest companies in our industry—are no worse off now than they were before the settlement.
- In fact, many are better off, as thousands of their independent contractor real estate agents are released by the settlement.
- They can choose whether or not to use the mechanism NAR negotiated.
- Our options included reaching a settlement – whose terms were always going to be affected by the large settlements reached by other corporate defendants – or continuing to appeal the Sitzer-Burnett verdict and litigate the related cases.
- That second option likely would have resulted in our filing for Chapter 11 protection, leaving all members, associations, MLSs, and brokerages exposed.

43. How do I know if I'm covered by the settlement?

- There have been a lot of incorrect statements about the releases in the NAR settlement.
- To be clear, nearly every REALTOR® is covered by the release we negotiated in the settlement.
- The members not covered under our release are those affiliated with HomeServices of America, the last co-defendant in the Sitzer-Burnett litigation, and the employees of the co-defendants in the Gibson and Umpa cases.
- If you are affiliated with any of the following brokerage groups and are an independent contractor, **you are covered by the proposed settlement** — even if your brokerage may not be covered:
    - At World Properties, LLC; Compass, Inc.; Douglas Elliman, Inc.; Douglas Elliman Realty, LLC; eXp Realty, LLC; eXp World Holdings, Inc.; Hanna Holdings, Inc.; HomeSmart International, LLC; Howard Hanna Real Estate

Services; Real Broker, LLC; The Real Brokerage, Inc.; Realty ONE Group, Inc.; Redfin Corporation; United Real Estate; and Weichert Realtors.

- All other REALTORS® who are members of NAR on the date of class notice are covered by the release we obtained under this proposed settlement.
- The release specifically includes all brokerage firms with a principal who is a REALTOR® whose residential transaction volume in 2022 was 2 billion dollars or below.
- Unfortunately, and despite our best efforts to fight for their inclusion, the release does not include brokerage firms whose residential transaction volume in 2022 was above 2 billion dollars.
    - For those companies, the settlement provides an avenue they can pursue if they desire to be included in the release — but to be clear, the settlement does not obligate any of those companies to settle under these terms.
    - The settlement provides a cap and an opportunity to mediate a different outcome but it does not obligate these top brokerages to pursue this option if they don't desire.
- Notably, the release also includes every local, state, and territorial REALTOR® association and all REALTOR® association-owned MLSs that agree to the conduct changes.

44. How would the prohibition of offers of compensation on the MLS affect pending transactions/current deals?

- The practice changes will go into effect in mid-July 2024.
- Until the practices changes go into effect, offers of compensation are still permitted on the MLS.

45. Doesn't moving offers of compensation off-MLS introduce friction into the homebuying process? What happens if a buyer broker can't get timely information from a listing broker about offers of compensation?

- This will be a time of adjustment, but real estate professionals have adjusted to change many times over the years.
- The settlement does not change the ethical duties that NAR members owe their clients.
- REALTORS® are always required to protect and promote the interests of their clients and treat all parties in a transaction honestly (Article 1, COE).
- NAR members will continue to use their skill, care, and diligence to protect the interests of their clients.

46. Wasn't the purpose of publishing offers of compensation on the MLS to promote transparency? Doesn't moving offers of compensation off-MLS reduce transparency?

- NAR remains dedicated to bolstering transparency in the marketplace and working to ensure that consumers receive comprehensive, equitable, transparent, and reliable property information, as well as the ability to have affordable professional representation in their transactions.

47. Won't prohibiting offers of compensation on the MLS raise fair housing issues?

- This settlement allows compensation to remain a choice for consumers when buying or selling a home.
- NAR continues to believe that offers of compensation help make professional representation more accessible, decrease costs for home buyers to secure these services, increase fair housing opportunities, and increase the potential buyer pool for sellers.
- The settlement does not change the ethical duties that NAR members owe their clients.
- REALTORS® are always required to protect and promote the interests of their clients and treat all parties in a transaction honestly (Article 1, COE).
- NAR members will continue to use their skill, care, and diligence to protect the interests of their clients.

48. If my MLS removes the compensation field, can I choose to publish my cooperative commission offer in the agent remarks?

- No. The new rule would prohibit offers of compensation on the MLS.

49. How long until the offer of compensation field needs to be removed from MLSs?

- The practice changes will go into effect in mid-July 2024.

50. Does this prohibition affect the compensation amount paid to the listing broker?

- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they represent, as NAR's policy has required for decades.

51. Does this mean buyer brokers may have to work for free?

- No. We have long believed that it is in the interest of the sellers, buyers, and their brokers to make offers of compensation — but using the MLS to communicate offers of compensation would no longer be an option.
- The types of compensation available for buyer brokers would continue to take multiple forms, including but not limited to:
    - Fixed-fee commission paid directly by consumers
    - Concession from the seller
    - Portion of the listing broker's compensation
    - Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they represent.

52. Can a buyer request the listing broker to pay compensation to the buyer broker?

- Yes.

NAR FINANCING FAQ

1. What are interested party contributions?

Fannie Mae, Freddie Mac, and the FHA specify limits on how much a seller or broker can contribute to the buyer to pay for services typically paid by the buyer. These payments are called interested party contributions (IPCs).

2. Is compensation paid by a seller or listing broker to a buyer broker considered an IPC?

No. The agencies exclude fees “traditionally” or “customarily” paid by the seller from the IPCs.

3. Does the recently announced NAR settlement change that? Is compensation paid by a seller or listing broker to a buyer broker now an IPC?

The settlement would preserve the choices consumers have regarding real estate services and compensation. After the new rule goes into effect, listing brokers and sellers could continue to offer compensation for buyer broker services, but such offers could not be communicated via the MLS.

Based on our interpretation of current guidance that Fannie Mae, Freddie Mac, and FHA provide on this point, we do not expect compensation paid by a seller or listing broker to a buyer broker to become an IPC.

NAR is working to get verification on this point.

4. So does the settlement change access to mortgages for buyers?

No. Under the settlement, buyers still have the same options when it comes to compensating their real estate representatives. That is, the listing brokers can compensate the buyer broker, the seller can compensate the buyer broker, or the buyer can compensate their broker directly.

Based on our interpretation of current guidance, buyers should still be able to get financing from Fannie Mae, Freddie Mac, and the FHA under these scenarios.

NAR is working to verify that this interpretation will hold. However, none of these agencies will allow the buyer to finance a commission into the mortgage at this time.

5. What about VA loans and the prohibition on buyers paying commissions directly?

The VA has not addressed whether it will change its requirement prohibiting VA buyers from paying the commission.

NAR has engaged with the VA on this issue, and we remain committed to working with the VA so that veterans are not left out of the market or forced to consider alternative loan products.

6. Can real estate commissions be financed?

Financing commissions is not feasible under the current structure of the residential mortgage finance system, and there is no clear short-term legislative or regulatory fix.

Banks would treat such a loan as a personal loan that would have higher rates and they would limit access to those loans to borrowers with better credit profiles. Furthermore, that personal loan would add to the buyers' liabilities and make it harder to qualify for the mortgage they are seeking.

Fannie Mae, Freddie Mac, and FHA do not allow commissions to be added to the balance of the mortgage. Simply put, investors will only lend against the asset they can take back and sell in a foreclosure. An investor would not be able to take back and sell the commission for a service like real estate brokerage.

Finally, there are significant limits to adding commissions to the mortgage rate. Several rules that make up the foundation of mortgage finance would need to be changed by the regulators and Congress. Those rules took years to develop, implement, and refine, and changing them could take years, potentially a decade or more.

7. What is NAR doing to promote access to financing for home buyers?

As noted above, IPCs do not currently affect the availability of financing and that is not expected to change.

NAR is working with our partners in the lending community to gain greater clarity on guidance from the agencies and to maintain the steady flow of funding for closing home purchases.

NAR also continues to advocate for policies that could benefit potential homebuyers and expand opportunities for Americans to achieve homeownership.





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2024

APRIL

Calendar of Events

SUN	MON	TUE	WED	THU	FRI	SAT
	1 Affiliate Meeting 1pm	2	3 NAR Webinar: America's Ongoing Fair Housing Journey	4	5 45 Hour License Renewal Course 9:30a - 12p	6
7	8 **Ensure Your Paycheck 10am - 11:30am**	9 Residential Purchase Agreement Course 10a - 1p	10	11 California Risk Management 10a - 1p	12	13
14	15 	16 Fair Housing Day Supra Ekey PRO Training 8am	17	18 Working with Real Estate investors: Understanding Investor Strategies 10am	19 45 Hour License Renewal Course 9:30a - 12p	20
21	22 Supra Showing Management 8am	23 Buyer Representation Broker Compensation Course 10a - 1p	24 NAR Webinar: Building Business and Community on a Fair Housing Foundation 10:00am	25 Business Planning for Real Estate Professionals 10a - 1p	26	27
28	29 CRMLS Virtual Training 9am - 10am	30 NAR Required Code of Ethics Course				

Join us for committee meetings, educational offerings, and great community and charity events!



BROKER OPEN HOUSE:

THURSDAY 11:00 am - 2:00 pm Broker Open House, areas 9, 11, 12, 25-27

FRIDAY 11:00 am - 2:00 pm Broker Open House, areas 1-8, 10, 14-17

