

Antitrust Litigation Fact Sheet

Texas REALTORS® has been named in class action antitrust lawsuits. Several local associations of REALTORS® and real estate brokerages in Texas have been named as co-defendants. Texas REALTORS® has hired Husch Blackwell, a national law firm with extensive experience in antitrust litigation.

THE ALLEGATION

The lawsuits allege that enforcement of the “Mandatory Offer of Compensation Rule” by state and local associations and individual brokerages amounts to a conspiracy that inflates commissions paid by sellers in real estate transactions.

The “Mandatory Offer of Compensation Rule” refers to NAR MLS Policy Statement 7.23, which requires MLS participants to specify on each listing filed with the MLS the compensation being offered by the listing broker to cooperating (buyer’s) brokers.

FOR MORE INFORMATION



OUR POSITION

There is no association or MLS policy that sets compensation amounts for brokers.

- MLSs are pro-competitive and pro-consumer. MLSs give all buyers, including first-time and low-income buyers, better access to the American dream of homeownership while also exposing a seller’s property to the greatest number of potential buyers.
- MLS Policy Statement 7.23 does not require listing brokers to offer any set amount of compensation to buyer’s brokers. Cooperative compensation can be as low as one dollar, one cent, or even zero depending on the local MLS.

Individual brokers determine the amount of commission or fees they charge for their services. Consumers can negotiate how much they will compensate a broker. Some brokers may agree to lower their fees while others may not. Consumers have many choices regarding real estate brokers based on their fees and services.

WHAT SHOULD BROKERS AND AGENTS DO?

Be completely transparent about the fees your brokerage charges and how you get paid.

Explain to clients the value you bring to the transaction and why you charge the fees that you do.

Use written listing and buyer representation agreements to clearly spell out your fees and services.

Continue to comply with and educate agents on antitrust policies.

- There are no “standard commissions” in real estate.
- Each brokerage must independently determine the fees it will charge.
- Antitrust laws, as well as an agent’s fiduciary duty and the REALTOR® Code of Ethics, strictly prohibit agents from price fixing, boycotting, or “steering” clients based on compensation amounts.

WHAT HAPPENS NEXT?

Litigation is a long process that may take several years to resolve. Texas REALTORS® will provide information to members as soon as we are able. You may receive the latest updates and resources by visiting texasrealestate.com/lawsuit. Additional information and resources regarding other antitrust investigations and lawsuits may be found on NAR’s website at competition.realtor.

