



THE NAR SETTLEMENT: WHAT BUYERS NEED TO KNOW



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QUICK SUMMARY OF THE CASE

The National Association of Realtors (NAR) was involved in class action lawsuits filed against them beginning in March of 2019 that centered on how their rules on real estate commissions were structured and communicated to Sellers and Buyers. It was alleged to be in violation of the Antitrust Act. The NAR asserted and maintained a defense denying all claims. Subsequent to motions and a jury trial of one of the cases, the Parties eventually agreed to engage in Mediation. As a result of that Mediation, the NAR entered into agreement with Plaintiff Home Sellers to a settlement of those cases. The Settlement included Procedural changes aimed at increasing transparency, clarity, and consumer choice for Buyers and Sellers regarding commission and agency. The settlement is a significant development that will reshape how real estate transactions are conducted and went into effect August of 2024. As a buyer, it's important to understand the implications of this settlement. This post aims to provide clarity on what you need to know.

Key Changes Resulting from the Settlement

The settlement addresses several key areas, primarily focusing on transparency and negotiation regarding real estate agent commissions. Here are the main points:

- **Buyer Representation Agreements:** Buyers are **required** to have a written buyers agreement with their agent **before** touring any home-- clearly outlining services and compensation.
- **Open Houses-** Buyers do NOT need a written agreement for Open Houses or if just speaking to an Agent about their service.
- **Commission Transparency:** Increased transparency regarding how real estate agent commissions are determined and paid.
- **Negotiability:** Buyers will have more explicit negotiation power regarding agent compensation.
- **MLS Listings:** Changes to Multiple Listing Service (MLS) rules to prohibit display of commission offers.

How This Affects You as a Buyer

These changes empower buyers with more control and information. Here's how the NAR settlement directly impacts you:

- **Greater Control Over Costs:** You'll have more leverage to negotiate the commission you pay to your buyer's agent.
- **Informed Decisions:** Buyers will have conversations earlier on in the Buying Process. Clearer information on commissions helps you make informed decisions about representation.
- **Direct Negotiation:** The settlement facilitates direct negotiation with your agent about their fees.
- **Written Agreements:** Buyer Representation Agreements ensure clarity on the services you'll receive and the associated costs.

What to Do Next

Now that you're aware of these changes, here are some steps you can take:

1. **Educate Yourself:** Continue to stay informed about the real estate market and the evolving landscape of agent compensation.
2. **Ask Questions:** Don't hesitate to ask potential buyer's agents about their fees and services. Request a Buyer Representation Agreement.
3. **Negotiate:** Be prepared to negotiate the commission you're willing to pay.
4. **Seek Advice:** Consult with real estate professionals and legal advisors to fully understand your rights and options.

Summary

The NAR settlement brings significant changes to the real estate landscape, particularly concerning buyer representation and commission transparency. By understanding these changes and taking proactive steps, buyers can navigate the market with greater confidence and control over their transactions.