



SMARTMLS SETTLEMENT TOWN HALL

JULY 25, 2024



AGENDA

- Welcome
 - Kathy Elson – CEO, SmartMLS
- How Did we Get Here
 - Dylan Carson – SmartMLS Anti-Trust Council
- Required Practice Changes
 - Kathy Elson– CEO, SmartMLS
- Training Opportunities
 - Joanne Breen – Director, SmartMLS
- Question/Answer Session
 - Michael Barbaro – President, SmartMLS



ANTI-TRUST STATEMENT

- Before we begin, I want to remind everyone that SmartMLS is committed to complying with all applicable antitrust and competition laws.
- It is important that we conduct our business in a manner that avoids even the appearance of improper conduct.
- During this meeting, we must avoid discussions or exchanges of competitively-sensitive, non-public information that could be construed as anti-competitive.
- Among other things, we are prohibited from discussion of (1) commission rates or fees, (2) allocating any customers or markets, or agreeing not to compete for anyone's business, and (3) boycotting or agreeing to work collectively against any vendor or service provider.
- We will immediately stop any discussion deemed noncompliant with antitrust laws.
- If you have any concerns about the appropriateness of a particular topic, please speak up and we will address the issue immediately.



HOW DID WE GET HERE

- Since 2019
 - 4 major lawsuits filed against NAR and a number of corporate brokerages
- Fall 2023
 - Burnett case went to trial
 - October 31, 2023, jury sided with plaintiffs (home sellers)
 - Jury awarded a \$1.78 Billion in Damages
 - Antitrust cases damages can be tripled making the damages over \$5 Billion
- March 15, 2024
 - NAR announces a proposed \$418 million settlement to settle the home seller lawsuits
- June 17, 2024
 - SmartMLS notifies plaintiffs' counsel of its decision to opt-in to the settlement
- August 17, 2024
 - New "practice changes" in accordance with the NAR settlement go into effect
- November 26, 2024
 - Final approval hearing on NAR settlement

PRACTICE CHANGES



Eliminate and prohibit any requirement of offers of compensation on an MLS between listing brokers or sellers to buyer brokers or other buyer representatives.



Eliminate and prohibit MLS Participants, Subscribers, and sellers from making any offers of compensation on an MLS to buyer brokers or other buyer representatives.



Require an MLS to eliminate all broker compensation fields and compensation information on an MLS.



Require an MLS to not create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregator's website for such purpose) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.



Prohibit the use of MLS data or data feeds to directly or indirectly establish or maintain a platform of offers of compensation from multiple brokers or other buyer representatives. Such use must result with an MLS terminating the Participant's access to any MLS data and data feeds.



Require MLS Participants working with a buyer to enter into a written agreement with the buyer prior to touring a home.



CTR TRAINING

WEDNESDAY, JULY 31, 2024

CT REALTORS is hosting an online class on July 31st

“What You Need to Know by August 17”

Topics Covered:

1. Settlement background & practice issues: buyer agreements prior to showing, open houses, cooperative compensation, seller concessions
2. Existing CT statutes: requirement for written buyer agreement, mandatory disclosure about real estate compensation, open houses
3. New CT statute: Prospective Parties form
4. Changes to Forms and New Form / NAR Settlement: Buyer Representation, Listing Agreements, Broker to Broker Compensation, Rider to the Purchase Agreement, and more
5. Antitrust and Real Estate: Frequently Asked Questions
6. Model Antitrust Policies for Offices and Salespersons



NAR TRAINING

REGISTER AT [FACTS.REALTOR](https://facts.realtor)

Join NAR on either August 1st, 5th, and 15th to learn how to navigate the upcoming practice changes.

Join members of NAR's Legal Affairs team to receive timely information regarding how the proposed class action settlement and the practice changes may impact your business and your clients, including:

- Timely updates on the settlement process
- What you can expect when the practice changes take effect
- Tips for answering consumer questions regarding class notices
- Tools and resources you can leverage to effectively navigate the practice changes and communicate accurate information to your consumers, clients and customers.

Register at facts.realtor
Note: Times are Central Time

Navigating the Upcoming Practice Changes - Live Interactive Webinars

Available to members and associations only.

Thursday, August 1st | 2pm-3pm CT 

Monday, August 5th | 11am-12pm CT 

Thursday, August 15th | 3pm-4pm CT 



FACTS.REALTOR

LEARN MORE ABOUT THE SETTLEMENT

Settlement Resources

Q&A

Frequently asked questions about the settlement, for NAR members.

Settlement FAQ

Answers about NAR's settlement, including key terms, who is covered, practice changes, financing, and NAR operations, in English and Spanish.

Updated July 15, 2024

Written Buyer Agreements 101

These agreements benefit consumers because they clearly and transparently outline the services an MLS Participant will provide and how they will be compensated.

Buyer Agreements

Broker-to-Broker Agreements 101

Broker-to-Broker agreements help to memorialize compensation agreements between brokers, in accordance with the seller's



Video series explaining various elements of the settlement.

Watch Videos

Summary of MLS Policy Changes

MLS policies and model MLS governing documents have been reviewed and updated. Download details of all the changes.

MLS Policy Changes

Updated July 3, 2024

Handbook on Multiple Listing Policy

Settlement Documents and Information



Settlement Timeline

Updated May 7, 2024

Resources for Consumers

For Homebuyers

For Home Sellers



QUESTIONS AND ANSWERS

Q. When will the compensation fields be removed from the MLS?

A. The compensation fields for all Active, Under Contract, Under Contract - Continue to Show, Temp off Market and Withdrawn listings will be removed on Friday, August 16, 2024.



QUESTIONS AND ANSWERS

Q. Can attachments or the remarks fields include any broker to broker compensation offers? Or, can we add compensation information to ShowingTime?

A. No, a reference to compensation is not allowed anywhere in the MLS. In addition to the above examples, compensation cannot be on photos or virtual tours.



QUESTIONS AND ANSWERS

Q. Where will we be allowed to show compensation if not on the MLS?

A. Compensation cannot be on the MLS. There is no prohibition of mentioning compensation for your own listings off the MLS.



QUESTIONS AND ANSWERS

Q. How will seller's concession information be available post changes? This information is crucial to appraisal valuations.

A. The seller concession fields (Seller Concession Amount and Seller Concession Description) when closing out a listing will be available the same way they are today.



QUESTIONS AND ANSWERS

Q. Will you be adding a concessions field in the listing moving forward?

A. SmartMLS will not be adding any additional concessions fields.



QUESTIONS AND ANSWERS

Q. What is the value of the MLS if compensation is not offered via the MLS?

A. SmartMLS remains committed to equipping real estate practitioners, homebuyers and sellers with a transparent marketplace and the most concise, comprehensive and up-to-date information possible.

SmartMLS remains committed to actively monitoring the impact of the practice changes mandated by the agreement to determine whether they harm historically disadvantaged communities, low down payment buyers and first-time homebuyers.