

Let's debunk 7 mainstream media falsehoods, post-NAR settlement

Premier Sotheby's International Realty President and CEO Budge Huskey corrects the record on commissions — and the potential impact of the NAR settlement on buyers, sellers and agents

BY [BUDGE HUSKEY](#)

March 25, 2024

The National Association of Realtors announced a [settlement agreement](#) with class-action plaintiffs in the Sitzer | Burnett case earlier this month, 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 interests 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 consumer-facing media stories reflect a profound lack of understanding of the real estate business as well as mistaken claims.

Below, I'll go through several of the points that media is making to consumers and debunk some of those myths.

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 or the services they elect to deliver. Realtor fees have always been negotiable. 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.

Now, there are comparisons to what fees are in the U.S. versus some other countries, yet in many of the countries referenced, the real estate professional is an employee with benefits and often salaries with bonuses. The vast majority of real estate professionals in the U.S. are 100 percent performance paid through commissions.

2. 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 buyer's agents to show and sell the home is the best way to achieve their goals.

3. 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.

4. 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.

5. The settlement will serve to 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 title fees, closing fees, mortgage-related expenses, property taxes, association fees, etc.

Should real estate commissions theoretically be reduced by 1 percent 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 the values of homes in our market have risen dramatically in recent years.

6. 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 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 Mae and Freddie Mac, and neither have provisions for commissions to be financed.

In fact, the Veterans Affairs (VA) loan program expressly prohibits the borrower from paying any form of commission in a real estate transaction. So just how is a veteran who has honorably served his or her country now better off without representation?

7. The settlement will result in significant restitution to real estate consumers who were 'harmed' over recent years in their transactions 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 \$10 per person, depending on how many sellers actually file claims. 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. I'll be the first to acknowledge that there are some professionals the industry would be better without, but they are in the minority.

What I have consistently witnessed is the incredibly hard work and countless situations where the agent has gone above and beyond to do things and pay for things he or she shouldn't. To manage complex transactions, calm emotions, build relationships based on trust and care, help buyers realize their dream, and sellers maximize their return. And sometimes, they even serve as housekeepers, caretakers, repairmen, and countless other roles, always making sellers and buyers their primary concern. I am proud to work with them every day, 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. 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.