

Shared by Ophelie Montgomery - April 4, 2024

**BROKER/AGENT TO VERIFY TIMELINE FACTS – Informational purposes, not guaranteed.**

Hello RE/MAX of Spokane Brokers

Please find below an information sheet prepared by another RE/MAX Broker/Owner in California. I thought this might be interesting for some of the newer Brokers to follow the evolution of real estate practices and commissions. Change is inevitable but growth is optional. This is not the first time the real estate industry has faced major change and won't be the last.

I did some deep diving into the history of real estate and the evolution of brokerage compensation. I found it really helpful in alleviating panic. I read the actual settlement, every page, before creating it. I also read several articles, case studies, etc. before presenting. .

Interesting talking points

- 418 million dollars paid over 4 years.
- Per the settlement all practice changes end in 7 years.... (tell me again how it's about the practice changes and not the money)
- in the early 1900's all listing agreements were Open Listings. Brokers weren't willing to share their listing information for fear of a buyer going direct and being cut out.
- MLSs were created to encourage exclusive listing agreements, open sharing of the listing while knowing you wouldn't be cut out. By 1923 there were more than 120 real estate boards with an MLS
- By 1950 a national survey showed 50% of brokerages were still accepting both exclusive and open listings.
- By 1977 93% of brokerage firms belonged to one or more MLS
- 1978 a Federal Trade Commission survey found 52% of MLS sales involved agents at 2 different firms. BUT, at that time, both agents represented the Seller.
- In 1979 California Real Estate Commissioner David Fox reminds licensees in an industry trade publication that listing agents and selling agents owe their allegiance to Sellers only. 2 agents worked the deal from 2 separate brokerages, but they both represented the Seller with Sub-agency.
- 1980 NAR advised MLSs to stop publishing the total Seller paid commission rate, and just to publish the split that would be offered to the other agent, who would bring a buyer, but represent the Seller.
- 1983 The FTC got involved again. they didn't like both agents working for the Seller. It was confusing to the Buyers that one agent would bring them, but technically represent the Seller. They said the notion that agents working with buyers are always subagents of the listing broker is "one of convenience. A broker...retains the legal right to act as the Buyer's agent, should he or she so choose"
- 1985, in response to the FTC, NAR pushed for laws requiring mandatory agency disclosure. again, we didn't want to confuse the clients.
- By 1992 NAR amends more rules to allow MLSs to drop Subagency as a mandatory component of offers of compensation. Ethics is updated to create standards for representing Buyers.
- By 1993 Colorado becomes the first state to allow non-agency "transaction brokers"
- 2019 - Sitzler Burnett complaint is filed saying Sellers are treated unfairly.
- 2024 - NAR settles and changes the rules once again.

It is ironic that the real estate industry changed from subagency to buyer representation in the early 90's due to pressure from the DOJ and FTC complaining that buyers were not being treated fairly. Only to have the complaint flipped 30 years later, and the same parties forgetting that these changes were their doing.