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REBNY vows to fight antitrust lawsuit

Association slams claims, gears up for legal battle

New York City's governing real estate authority vowed to get tough on the Big Apple's edition of a series of antitrust lawsuits targeting residential commission rules.

The Real Estate Board of New York told members in a Thursday morning email it would dispute an antitrust lawsuit filed by a New York home seller against it and 26 area real estate firms. The lawsuit filed earlier this month alleges REBNY's Universal Co-Brokerage Agreement violated antitrust laws with its rules requiring sellers to pay buyers' agents.

"REBNY will vigorously defend the litigation and respond to the complaint, which is laden with numerous inaccuracies regarding the RLS, the UCBA, and the business of real estate," the board said in its notice to agents.

The group declined to comment.

The organization updated the UCBA in October, including a change to prohibit listing brokers from paying buyers' agents, instead requiring sellers to pay them directly. The new rules take effect January 1.

The lawsuit in New York City was filed less than two weeks after a verdict in Sitzer/Burnett, an antitrust case filed in Missouri against the National Association of Realtors and two residential brokerages, HomeServices of America and Keller Williams.

The trial centered on the trade group's commissions requiring brokers to offer compensation to buyer's agents in exchange for access to Realtor-controlled MLSs. The jury found the firms liable of colluding to inflate commissions and awarded \$1.8 billion in damages, which the judge can treble to more than \$5 billion. NAR vowed to appeal the verdict, which is awaiting final approval by a judge.

REBNY said in its message to members the huge sum won by the plaintiffs in Missouri likely inspired the lawsuit filed in New York, which is in good company with copycat complaints by sellers and buyers targeting firms in a slew of markets, including in Illinois, New England and Texas.

REBNY's fellow defendants in the New York complaint have also been named in antitrust suits across the country. The pressure is mounting for national brokerages named in multiple suits, which pose enormous costs because of the massive amount of discovery they entail and potential settlement or damages, which can total in the tens of millions or billions of dollars.

Anywhere Real Estate and RE/Max proposed settlement deals before the Sitzer case headed to trial, agreeing to pay \$84 million and \$55 million, respectively. The deals, which are expected to be approved by a judge in mid-2024, also sought to exclude the firms from *Moerhl v. NAR*, a similar suit in Illinois set to go trial next year.

Executives at the parent company of Corcoran, Coldwell Banker, Century21 and Sotheby's International Realty were quick to brag about during the company's recent third quarter earnings call, months after saying litigation costs had "meaningfully" impacted the company's bottom line.