



October 20, 2021

Dear Charlie:

For the past several years, two trends have emerged: the National Association of Realtors (NAR)'s inability to escape legal scrutiny regarding its exclusionary practices which harm consumers, and the consistency of NAR's public-relations machine's ability to label every legal action it does not like as hollow or baseless.

Meanwhile, three federal cases challenging NAR's mandatory commission rules have been greenlit for discovery. In each case, the Justice Department felt compelled to intervene and correct NAR. In July, DOJ launched a new investigation into NAR. And that same week, President Biden called on the FTC to address "exclusionary practices" in the real estate industry.

Suffice to say, none of these actions remotely signals that we are dealing with a hollow or baseless legal conspiracy theory as you suggested in your recent comments on REX CEO Jack Ryan's letter laying out specific reforms for NAR to consider at its national meeting. But don't take it from REX. Consider what others in the real estate industry are saying. Zillow, which recently joined NAR, has repeatedly called NAR's segregation rule "outdated" and publicized its efforts to overturn the rule. Real estate media entrepreneur Brad Inman has acknowledged the "underlying belief by many . . . that the fragmented real estate industry operates like a cabal with its arcane MLS rules, broker cooperation system, off-market listings and opaque commission cannons — practices that can lead to price fixing, constraint of trade and antitrust." At this month's Council of Multiple Listing Services Conference, various industry insiders observed that change is coming.

Today, I ask you to listen to the chorus of voices in our community and voluntarily address outdated industry policies which hurt consumers and stifle innovation. We may not agree on every detail, but that does not stop us from making significant progress. As the Justice Department pointed out last week: "even a modest injection of competition into real estate brokerage could save consumers billions of dollars per year." The proposals that REX has raised are worthy of consideration. So are the voices of brokers like Bret Weinstein of Denver, who wrote an op-ed this summer titled: "NAR, stop fighting for commissions — make better Realtors."

I hope we can have a thoughtful dialogue about the need for policy reforms. Everyone gains from a conversation about what innovators and realtors can do together to make today and tomorrow's real estate marketplace better for consumers. I am happy to have this dialogue with you or with my fellow Texan, Leslie Rouda Smith, after she becomes NAR President, if NAR is unable to address various needed reforms at the national conference in November.

Sincerely,

A handwritten signature in black ink that reads "Michael Toth". The signature is written in a cursive, flowing style.

Michael Toth

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