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## RE/MAX Mountain West News



October 2024

### NAVIGATING THE PRACTICE CHANGES IN REAL ESTATE

In our April newsletter we discussed the lawsuit against the National Association of Realtors, the resulting settlement agreement, and some anticipated changes in the practice of real estate. The new industry rules included in the agreement took effect on August 17<sup>th</sup>. Although we're almost two months into the changes, brokers, brokerages, buyers and sellers are still navigating their understanding of rule compliance. We're also aware that the terms of the settlement are not yet carved in stone since the full agreement is not scheduled to receive final approval from the court until November. Additionally, the Department of Justice, which has been actively scrutinizing how real estate agents get paid, has expressed a keen interest in the settlement and a possible intention to object to its terms. This could send the parties back to the negotiating table. Therefore, this article is an update on how the key terms appear to be modifying real estate practices so far.

There are two major changes, the first being a requirement for buyers working with a Multiple Listing Service participant (most Realtors) to sign a written agreement which includes a disclosure of a specific amount of compensation (commission) to be paid to that participant (broker) by that buyer. If the buyer refuses to sign such an agreement, the broker cannot show property to that buyer. In Colorado, the agreement can be an Exclusive Right To Buy Contract, which creates a buyer agency relationship, or it can be an addendum to the Brokerage (Relationship) Disclosure To Buyer called the Buyer Broker Compensation Agreement. Without going into the differences between the two types of buyer broker compensation agreements, suffice it to say that in both, the buyer instructs the broker to request payment of the "success fee" from either the seller's broker or the seller's brokerage firm. But they each also obligate the buyer to pay any part of the success fee not covered by the seller or seller's brokerage firm.

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It's important to note here that this is a requirement of the NAR settlement, but not a requirement of the Colorado Real Estate Commission. Therefore, a buyer working with a real estate agent who's not an MLS participant is not required to sign an agreement. Another exception is a buyer being shown a property by the listing broker, since that broker has no working relationship with the buyer.

So now the buyers may be responsible to pay their own broker if the seller declines to do so. However, sellers who are unwilling to pay buyers' brokers may be shrinking their pool of potential buyers due to many buyers' inability to pay.

In Colorado, the Contract To Buy And Sell between buyer and seller has been revised to include a paragraph wherein the parties agree how much the buyer broker is paid and who pays. The buyer broker fee can be paid by the seller, the seller's brokerage firm, the buyer, or some combination of the three. In no event can the buyer's broker be paid more than the amount agreed upon in the compensation agreement signed by the buyer with the buyer broker.

The second major practice change is the elimination of any disclosure of compensation that a seller may be willing to pay to a buyer broker from the MLS database. Sellers are still allowed to pay a portion of the commission to which they've agreed to the buyer's broker, but neither that fact nor the amount may be disclosed in the MLS. It can be communicated between seller's and buyer's brokers by other means – verbally, websites, newspaper ads, signs, etc.

In practice so far, brokers listing a property are still having discussions with sellers regarding the amount of total commission and whether any of that commission will be paid to the buyer's broker. These discussions have always taken place, but now there's probably more awareness by sellers that the amount they agree to compensate the buyer broker is totally negotiable. Most sellers still appear to be willing to compensate the buyer's broker so as to encourage as many buyers as possible to view their property. Brokers working with buyers are explaining the requirement for a written compensation agreement, discussing the services they provide and agreeing on a compensation amount.

Some buyer brokers, before showing a property to a buyer, are attempting to ascertain the amount of compensation the seller is willing to pay so their buyer can make an informed decision as to whether to view the property or not, based on that buyer's potential obligation to pay all or part of the buyer broker compensation. Other buyers and buyer brokers are simply including their buyer broker commission to which they've agreed as an obligation for the seller to pay when they submit a contract offer on the property. It then becomes a point of negotiation between the buyer and seller.

This may sound complicated, but we believe that the resulting increase in open and detailed conversations between brokers and their clients regarding broker services, broker fees for those services, and who pays the fees is good for the real estate industry. We believe that full-time, professional, real estate brokers who are committed to their careers will embrace these changes and use them to increase their expertise, their professionalism and their services.



## COMMUNITY CALENDAR ... A SMATTERING OF LOCAL HAPPENINGS

- ◇ **Grand Mesa Arts & Events Center** has a variety of wonderful classes and events through the end of the year, visit their website for more information: [www.gmaec.com](http://www.gmaec.com)
- ◇ **Blue Sage Center for the Arts** will have some exciting events this fall, find out more at: [bluesage.org](http://bluesage.org)
- ◇ **The Creamery Arts Center** is also hosting some fantastic events this fall & winter, check out their calendar here: [www.creameryartscenter.org](http://www.creameryartscenter.org)
- ◇ **Delta-Montrose Concert Association** 2024-2025 line up has been announced, head over to their website to discover what they have scheduled for the season: [deltamontroseconcerts.com](http://deltamontroseconcerts.com)
- ◇ **Oct 11-13, Paonia:** Big B's Delicious Orchards Ciderfest. Enjoy live music, BBQ, Cideries, Farmers Market and a kid zone!
- ◇ **Oct 16, Hotchkiss:** Thistle Whistle Farm 3rd Annual Pepper Party Farm Benefit including tours, tapas and tastings.
- ◇ **Oct 19, Paonia:** Picklefest at Apple Valley Park. Including 2nd Annual Pickleball Tournament, food & drink vendors, live music and a fermented food contest. Find out more at: [www.northforkrecreation.com](http://www.northforkrecreation.com)
- ◇ **Oct 19, Paonia:** Paonia Oktoberfest hosted by Paonia United Brewing. Doors open at 3pm
- ◇ **Nov 30:** Small Business Saturday, support local small businesses for the holidays. With a plethora of local vendors, you're sure to find special gifts and holiday treats in Delta County!
- ◇ **Nov 30:** Cedaredge Public Library Holiday Lantern Jars, children are invited to choose their favorite colors and create a lantern that can be used as a night light or festive decoration.
- ◇ **Dec 7, Cedaredge:** Christmas in the Cedars. Enjoy a pancake breakfast, Christmas market, Santa meet and greet and parade of lights. Bring a donation for the food bank food drive if you can.
- ◇ **North Fork Valley Creative Coalition** will be hosting the 32nd Annual Paonia Holiday Art Fair, visit their website for more details: [northforkcreative.org](http://northforkcreative.org)
- ◇ **The North Fork Children's Christmas Party** wrapping party will be Dec. 7th and celebrations will be on Dec. 14th, get in the holiday spirit this year by donating to this wonderful cause!



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POSTAGE

TO:

Please call me if you know someone who would like to receive this newsletter!

### Delta County Real Estate by the Numbers Year to date statistics as of September 30th

- **Sold Listings**—266 (2023) vs. 293 (2024), an increase of 10.2%
- **Median Sales Price**—\$365,000 (2023) vs. \$375,000 (2024), an increase of 2.7%
- **Days on Market Until Sale**—114 (2023) vs. 121 (2024), an increase of 6.1%
- **New Listings**—447(2023) vs. 461 (2024), an increase of 3.1%
- **Average Sales Price**—\$407,080 (2023) vs. \$421,095 (2024), an increase of 3.4%
- **Average Sales Price as of 09/30/24**  
Delta area - \$378,784; Surface Creek - \$427,478; North Fork - \$491,863