Who’s lobbying NAR? Zillow, dues dollars and the DOJ

The National Association of Realtors is perennially involved in lobbying legislators to effect healthy real estate policy. The shoe has been on the other foot lately. A local association is lobbying membership to push back against an NAR dues increase, and Zillow has reportedly expressed concerns about organized real estate, specifically Upstream, to federal antitrust regulators.

With midyear legislative meetings ahead next week for NAR, it’s a perfect time to absorb the politics and be informed:

The dues increase

There’s been plenty of chatter about the start/stop of NAR’s proposed new logo, but it’s really a distraction from the meat of the discussion around the proposed $30 member dues increase. Some members are against the increase, a fair and expected position.

The most prominent and well-marketed lobby against the dues increase comes from the Houston Association of Realtors. The points made by HAR highlight prominent parts of the budget and start some good conversations.

There are a few points of clarification that should be considered by those being lobbied. These are not the positions of any association, merely those of one overly opinionated Realtor (is that redundant?) — caveat emptor.

The proposal would raise NAR dues from $120/year to $150/year to fund the new S.M.A.R.T. Initiatives and avoid NAR’s reserves dropping below their “safety net” level.

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Let’s go through HAR’s points and the context surrounding them:

HAR:

Waive the NAR reserves requirement for 2019 to allow leadership time to conduct a comprehensive line-by-line review and analysis of the budget to eliminate low usage and ineffective products and services, for example, HouseLogic, Realtor University, “dot-Realtor” domain and the Consumer Awareness Program.

Context:

Leadership has been and continues to do just this (see elimination of AMP, staff and travel reductions). It should continue and is certainly worthy of more analysis. This proposal would cause reserves to dip even further in the short term, though, which is problematic.

HAR:

Reallocate $30 of the $35 currently paid by members for the Consumer Awareness Campaign to fund the required 2019 budget needs and future budgets.

Context:

I didn’t like dopey Dunphy as my representative to the public, either. Consumer campaigns catch a lot of flack. They’re not intended for members, but they walk a fine line and sometimes fall off of it.

At the same time, members implore us constantly to educate the public on why Realtors are different. There’s a good argument to be made here for an adjustment, but the current budget is based on what members have asked for in the past.

HAR:

Charge the 150,000 RPR “power users” $11 per month to cover RPR’s operating expenses.

Context:

How many of those users would actually pay for the service? This requires a lot more analysis than dividing a budget by the number of free users. There’s more politics surrounding RPR than a

Trump/Kim Jong Un border visit. Let's just say the proposal is thin for now.

HAR:

Accept a dividend from Second Century Ventures in the amount of $39 million (of the roughly $43.8 million received) from the DocuSign IPO to fund the required 2019 budget needs.

Context:

SCV was created to support Realtor-friendly technology innovation that enhances the Realtor's role in the real estate transaction. It's a success story. It should grow and expand, and it needs to recapitalize to invest in even more companies that support members. Raiding its coffers for a one time Band-Aid would be ideologically short sighted and a shame.

(Full disclosure: I am NAR's liaison to Second Century Ventures for 2018.)

Your voice, your vote

As a member of a local, state and national board, I have conflicting priorities as do many of you. As an NAR director, the fiduciary duty is to NAR. That means doing what's best for NAR, which doesn't always line up with a local association position.

It does, though, include keeping local members and associations engaged. So the answers aren't simple, but keeping the association's lobbying and member support services strong in a time of great change for the industry is worth $30 to me. How we get to that number will be discussed heavily this coming week.

To those voting next week in D.C., I want to thank you for taking the time to really dig deeply into these topics and the discussions. It's going to be a lively board meeting, which we should all be looking forward to.

A quick note on the buzz surrounding NAR this week:

I wasn't in the real estate industry 20 years ago. So it's fascinating to see some industry veterans who seem to reminisce in the skullduggery of the old days. RIN, Homestore et al. — the conversations around today's technology ventures, in a way, feel as if the purveyors long for Stuart Wolff to reappear and sex up the industry news.

While loud voices toss "crisis" and "revolt" into the wind for flair, they come without substantiation. NAR is going through a transition that will not be easy. Leadership didn't set big hairy audacious goals and then expect that the path to get there would be primroses and puppies. It's an uncomfortable process in its infancy.

Feedback from membership is as visible and loud as it has ever been. Sometimes it's an outright rebuke, which is healthy. If there are skeletons to be drug from NAR's closets, let's expose them. But lobbing uncorroborated grenades that throw entire groups of people under the bus is reckless.

To those members and leaders responsibly asking — and arguing — for change, thank you for being engaged. If transparency is your goal, keep asking questions. This is a historic organization. Change doesn't happen in a day, but it is happening. It has barely begun.

Now onto other news.

FTC and DOJ workshop on competition in real estate

The feds are investigating competition in the real estate industry as the DOJ/NAR agreement on VOW policy expires this year. It was a bit of a surprise to hear that Zillow has reportedly expressed concerns to federal antitrust regulators, specifically about Upstream, but NAR's contacts in D.C. don't miss a lot of the open secrets on the Hill.

Zillow's thrown me for a loop lately. First, the company gave the iBuyer movement its greatest gift. Zillow became a buyer/seller and, on their transactions, have agents inform consumers of their property's full-market price before selling. This eliminates the "hide the market value" game some investors employ. It's the missing piece of the investor purchase that's gnawed at some agents for so long.

It's a genius move, and Zillow will likely dominate the iBuyer market in the long term. The consumers understand how much they might receive for a fully marketed home on the MLS, and they can make a rational decision about their home's sale. The predatory purchase concerns are eliminated — there's simply a fast-and-furious transaction with full transparency.

Unfortunately, that brilliant thinking hasn't extended to Zillow's federal lobbying. The investigative insinuations include MLSs blocking consumer access to data, and brokers impeding competition and consumer choice. These are ideas that have been roundly dismantled by both traditional brokers and industry upstarts.

The facts:

- Consumers have more access to real estate data than ever before.
- Consumers have this access because brokers agree to cooperate in an MLS.
- Consumers would be subject to countless disjointed private listing networks with little access to full market exposure without the MLS marketplace.
- Consumers have access to practically every listing in every market on thousands of broker websites. If a for-profit advertising portal has not gotten access to these same listings, it is because that portal has not agreed to terms which the homeseller and the homeseller's

broker have agreed are appropriate. The argument that consumers don't have access to real estate listing data is false, and frankly, laughable.
- NAR and MLSs have continually opened up new avenues to consumers accessing greater data during the past decade. The argument they will go backward after the end of the DOJ/NAR agreement simply ignores the reality of the industry's data trajectory.
- MLSs are not restricting data access. Homeowners, and their hired brokers, make decisions as to what is appropriate to advertise publicly about their homes. MLSs may assist in the delivery of that data, but the decisions lie with the seller.

As for brokerages, competition is at an all-time high, and variation is broad. Help-U-Sell existed before I was born. Today, we have flat-fee brokers, limited service brokers and even brokers who'll pay a consumer to list their home.

Look at the emergence of Compass, Opendoor, Purplebricks, Redfin, OfferPad, etc. New business entrants have every opportunity to compete and thrive or fail. Consumers have the choice to use any model they'd like, or no broker at all. We're swimming in choices.

It's no surprise that policymakers outside the real estate industry might need to do some research to come to these conclusions. That Zillow doesn't see it this way is a head-scratcher.

Lobby on, real estate friends. Just do your homework first. See you in D.C.

Editor's note: This piece has been edited to clarify Zillow's antitrust concerns expressed to regulators.

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