

National Association of Realtors
Cliff Niersbach
430 North Michigan Avenue
Chicago, IL 60611

May 10, 2013

Dear Mr. Niersbach:

HomeServices of America appreciates the opportunity to assess and respond to industry issues undertaken by your committee and we also appreciate your commitment to the efforts of the committee.

After careful review and consideration of the committee's recommendations, we have several serious concerns.

First, in addressing the option of allowing MLSs and Associations to provide lockboxes as part of their "Basic" service, the committee has recommended, correctly, in our view, that MLSs and Associations shall not realize an economic benefit from such provision of the service in excess of the operational cost of the service. However, the recommendation does not specify how the operational cost is to be determined or how it may be reviewed. We suggest that the language be changed to read:

An economic benefit exists when the MLS (or Association, in that section) is the seller or lessor of lockboxes, mechanical keys, programmers, fobs, smart cards or other access devices, and makes a profit or receives a commission or rebate based on the sale or lease of such devices that exceeds the actual audited costs of providing the service.

Given that the obvious intention of the committee is to allow for a straight off-set of costs and nothing more, it is imperative that the actual costs of providing lockboxes be determined and that the process be transparent to MLS and Association members."

While the recommended language would preclude MLS and Associations from charging members directly for lockboxes provided as a basic service, it does not prevent them from increasing dues or fees overall. Many brokers, in particular large brokers, bear the cost of these dues and fees charged for employees of the brokers. We believe the reformation of NAR MLS and Association policy should include an exemption from MLS and/or Association dues and fees for employees of brokers when those employees do not list or sell real estate but require access to MLS as part of their job responsibilities. A number of progressive MLS and Associations have adopted that exemption; now is the time for NAR to adopt the exemption as a mandate.

Second, the recommendations on Advertising include new language that would now ". . . not prohibit MLSs or associations of REALTORS from using dues or fees to establish or maintain

public-facing websites.” We find these terms to be so vague as to be almost open-ended. For example, does “maintain” include:

- a) The costs affiliated with the hosting of the web site?
- b) The costs of programming a site?
- c) The costs of marketing a site?

We have no doubt, based on proposals and communications of others of which you are, no doubt, aware, that some want to use the fees and dues collected by MLSs and Associations to actively market public-facing sites. Such expenditures—and the public-facing websites themselves—would put MLSs and Associations in competition with many of their broker-members, specifically their larger broker-members.

Therefore, we strongly suggest that the proposed new language on advertising specifically exclude the use of MLS or Association dues or fees to market public-facing websites.

Thank you for your consideration of these important matters.

Sincerely,



Robert Moline
President and Chief Operating Officer