



HIGH COUNTRY HOMESTEADS

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Possible Paradigm Shift On the Horizon for Real Estate



Its beginning to look a lot like Christmas Summit County!

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High Country Highlights

There has been some recent controversy lately about anti-trust lawsuits against major Real Estate Brokerages and the National Association of Realtors.

These lawsuits could impact how Real Estate transactions are conducted in the future.

First, let me share what is the issue being addressed by these lawsuits.

The lawsuit is around what is called "The Participation Rule." Realtors are currently required to be members of a Realtor Association and participate in the Multiple Listing Service called the MLS. When an agent Lists a property for sale, there is a mandatory offer of compensation to Buyer's Agents and Transaction Brokers to be able to List a property in the MLS.

If the Buying Agent or the Transaction Broker are not in the MLS, then they are not entitled to compensation. This policy hurts agents who are not members in the MLS.

This is not an uncommon situation in Summit County as we often will get Real-

tors from the Front Range who bring buyers up to Summit County to look at property and are not members of the Summit Realtors MLS. The Internet based brokerages (RedFin, Zillow, etc..) are also often not members of the local MLS.

As a Seller, the Seller pays the Listing Agent one fee. The Listing Agent decides how the commission will be split between the Listing Agent and the Buying Agent/Transaction Broker.

The second issue is around how commissions are communicated and how much the Seller pays for commissions.

Commissions tends to cluster around certain percentages like 5 to 6%. This clustering has led to accusations of conspiracy on pricing. Clustering alone does not indicate conspiracy. Clustering happens naturally as a business copies successful business practices. An example is in the Fast Food Industry where prices for common food items tend to cluster around a price range.

There are some stories of agents saying to the Seller

their commission is not negotiable or telling Buyers the commission is free to them.

Realistically, if the Seller is paying the commission, then its included in the purchase price. So the Buyer is paying. Its just not a direct and extra cost to the Buyer.

Another common complaint is that the Buyer's Agent is really working for the Seller since the Seller is paying the commission.

Fortunately in Colorado, the Buyer's Agent works for the Buyer and is contractually obligated to the Buyer. The Buyer's Agency contract is specific about how commissions will be paid.

So what do we think will be the changes as a result of the recent litigation.

We have already seen changes in the Summit MLS allowing a Zero percent commission or Zero dollar amount to be entered for the Buying Agent and Transac-

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**Merry Christmas and
Happy Holidays to
you, your family and
friends!!!**

Special points of interest:

- Possible Paradigm Shift coming in the Real Estate Industry
- Check out the Event Calendar on pg. 2
- Changes coming for Real Estate Practices



Potential Real Estate Industry Practice Changes

tion Broker. Previously, a non-zero amount had to be entered.

In Colorado, we have a Buyer's Agency Agreement where we discuss who is paying the commission and how much it is.

Buyers are often reluctant to negotiate and sign this agreement until they are ready to make an offer. We will see a shift in Brokerages requiring a signed Buyer's Agency Agreement before an Agent agrees to show the buyer any properties.

The belief is that we will see more Buyers being responsible for paying their Agent's commission. They will pay them directly as an extra cost on the Settlement Sheet or they will make it part of the offer.

The biggest impact will be on first time home buyers. They often struggle coming up with a down payment let alone pay an extra 2 to 3% to their agent. They also are less likely to self-represent because they have never bought a property before and need a lot more hand holding than an experienced buyer.

On the Selling side, we will see more use of tiered pricing (note: I have been using tiered pricing for years).

Tiered pricing is pricing based on the services being offered. This is predominantly from a marketing perspective.

There may also be separate Marketing fees and Buyer Incentive Fees that could come into the mix.

In New York, Sellers are no longer paying the Buying Agent effective Jan. 1st. The Seller can elect to pay but it is no longer assumed.

Eighty-five percent of properties sold in the US are sold with a Realtor.

Only 7% of property sales are sold via For Sale By Owner (FSBO). When doing a FSBO, there is a higher risk for the Buyer as the Seller is usually looking for a deal and doesn't want to pay commissions.

Most Realtors do many transactions in a year. FSBO's do a transaction maybe once or twice in a lifetime. There are a lot of things that could go wrong and Realtors have the experience in how to handle the "surprises" and have resources available to help in the situations where they don't have the experience.

Many of the lawsuits are being appealed because of incomplete data/evidence provided leading to misrepresentation and make up of juries.

There is an Ambulance Chaser effect happening as there is an avalanche of lawsuits being filed. We may even start seeing Class Action Suit mailings and advertising on TV or email like the Camp Lejeune lawsuits because of the outcome of the Missouri lawsuit. The interesting thing about the Missouri lawsuit, only two people on the jury had ever worked with a Realtor. This one is being appealed.

Some of the larger and national brokerages are settling out of court to avoid lengthy litigations.

I will keep you updated as I hear about more changes coming.

Upcoming Summit County Events

Date	Event
Fridays thru Dec. 15th	ABasin—Friday Afternoon Club—\$39 Adult Lift Ticket, 2 to-4 PM Beer & Appetizer specials
December 19, 2023 & January 9, 2024	ABasin—Rise 'n Shine Rando Series—7 AM to 9 AM
December 13-16, 2023	Copper Mountain—Toyota U.S. Grand Prix—Olympic Half Pipe Competition an Big Air Competition—Free
December 15, 2023	Keystone—Warren Station—Main Squeeze Concert—8:30 PM to 11 PM—Admission: \$28-30
December 24, 2023	Keystone—Keystone Childrens Center—Gingerbread Jubilee—Make Gingerbread houses—8:30 am to 4 PM—Reservations required Copper Mountain—Holiday Celebration Fireworks and Parade—Eagles Landing - 4 to 8 PM—Free Copper Mountain—Forge & Feast Christmas Eve Dinner—Aerie Restaurant (top of American Eage)—5 PM—Reservations Required—\$200
December 29, 2023	Keystone—Warren Station—Winter Comedy Night Series—Bryan Kellen—7:30 PM to 10:00 PM—\$25 to \$30
December 31, 2023	ABasin—Moonlight Dinner Series - New Years Eve with Hazel Miller—7 PM to 11 PM—\$250 Keystone—"All that Glitters & Glows" - New Years Eve Celebration with Funkiphino— 7:30 PM to 12:30 AM—Warren Station—\$30 to \$75 Copper Mountain—New Years Eve Celebration with DJ, Torch Light Parade and Fireworks—6 PM to 10 PM—Free
January 6, 2024	Keystone — Warren Station—Art & Asana—Yoga and Craft Event—1 to 5 PM—\$45 or \$80
January 7, 2024	Copper Mtn—Party in Peace Park by Mountain Dew—Park laps, Live DJ and Giveaways
January 13, 2024	Keystone—Backcountry & Bourbon Spirits Speaker Series—Warren Station—6:30 PM—\$25 to \$30
January 20, 2024	Keystone—Palette Passport: Global (Gourmet) Wine Pairing Dinner—Warren Station—6:15 PM—\$175 PP
January 22-26, 2024	Copper Mtn—US Revolution Tour—Top Junior Athletes compete in Half-pipe and Slopestyle
January 22—31, 2024	Breckenridge—International Snow Sculpture Championships—River Walk Center Parking Lots—Free