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NEW ZILLOW POLICY WILL HELP PROTECT HOME BUYERS AND SELLERS FROM ANTI-CONSUMER PRIVATE LISTING NETWORKS

DOJ SHOULD WEIGH IN TO ENSURE BUYER ACCESS TO LISTINGS AND TO CHECK BIG BROKER MANIPULATION OF SELLERS

Washington, D.C. – On April 10, Zillow announced that beginning in May, it will no longer list properties from the private listings of brokers who are publicly marketing them. This marketing includes social media, emails, and yard signs. This initiative represents an effort to stop, or at least slow down, the efforts of Compass and other big brokers to dominate the residential brokerage industry and disadvantage consumers through private listing networks.

“Private listing networks limit buyer access to homes for sale and promote misleading, disadvantageous choices for most sellers,” said Wendy Gilch, a Consumer Policy Center (CPC) fellow. “The networks would severely limit marketplace transparency and could well subject both buyers and sellers to manipulation by unethical brokers,” she added. (A small minority of sellers want and would benefit from private listings but effectively have this opportunity today.)

Many brokerages have taken steps to create private networks that keep listings in house. Compass in particular has made it clear that it wants to market new listings without restraint while retaining access to Zillow and other major portals – Homes.com, Redfin, and Realtor.com if they cannot find buyers.

Experts fear that the private listing brokers will seek to sell listings only to buyers working with the company’s own agents, then if they fail, make the listings available only to other big brokers with whom they collude. That collusion would greatly disadvantage small and local brokers as well as buyers.

“The efforts of some big brokers are likely to not only disadvantage buyers and sellers but also reduce competition,” said Stephen Brobeck, a Consumer Policy Center senior fellow. “The U.S. Department of Justice should take a close look at potential antitrust violations by those brokers who use deceptive practices to try to dominate markets,” he added.

There is evidence that some big brokers, notably Compass, are already encouraging their agents to promote private listings. There is also evidence that some agents are taking advantage of consumer unfamiliarity with the sales process to persuade sellers to sign up for private listings. These listings limit access to buyers, which could well minimize sale prices and extend the time to sell.

Earlier this year both Zillow and Compass released research findings about the relationship between private listings and sale prices. Zillow's research, based on analysis of 10 million sales, found that privately listed properties sold for lower prices than those listed on MLSs. Compass reported that their research found just the reverse but studied only an indeterminant number of their own sales and have yet to release a full report including research methods. It would appear to defy common sense that, all other factors being equal, limiting buyer offers would maximize sale prices.

If private listers can withhold new listings from the portals, buyers are unequivocally disadvantaged by private listings. They would lose access to the full range of properties being sold. They would also feel pressure to use agents from those big brokers with the most private listings. Other brokers would also feel pressure to introduce or expand their own private listings, further balkanizing the market.

Not limited by Zillow's new policy, big brokers who actively promote private listings can benefit in several ways:

- Increase the chances of double-ending sales, allowing one broker to retain the typical commission of 5-6 percent of the sale price.
- Attract buyers who correctly perceive that they can access information about listings on both a private listing network and the portals.
- Recruit agents who see greater opportunities to work with buyers and sellers.
- Exercise more influence over the market, industry associations, and state regulators.

The whole private listing issue (called "pocket listings" then) first surfaced in 2018 – a year before major class action lawsuits were filed – when Compass and others began challenging the Clear Cooperation rule of the National Association of Realtors (NAR). This rule required brokers to list properties within 24 hours after publicly marketing these properties. In 2019, NAR eased this rule by allowing brokers to market "office exclusives" within their own company without listing them on the local MLS and, effectively, on portals such as Zillow.

By 2024, Compass was campaigning for even fewer restrictions on private listings. In March 2025, NAR agreed to allow "delayed marketing exempt listings" that would restrict the showing of private listings by the portals. To gain access to these listings, consumers would have to register by providing personal information. However, in April 2025 Compass wrote to many MLSs asking them to curtail all portal access to private listings.

“We encourage all brokers to support Zillow’s efforts to maintain the transparency of real estate markets and prevent their balkanization,” said the CPC’s Brobeck.

“We encourage all sellers to think twice before permitting a listing agent to restrict the marketing of their properties within private listing networks,” said the CPC’s Gilch. “Sellers will attract the most buyer interest when their home is visible across as many major real estate websites as possible—some, like Zillow, draw over a billion visits a year, far surpassing any other platform in reach. And buyers should be skeptical of private listers who try to sign buyers to contracts by claiming to have access to off-market properties,” she added.

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