

The Council of Multiple Listing Services Protests the DOJ's Statement of Interest

The Association has filed an amicus brief highlighting 'flaws' in the DOJ's intervention in the Nosalek lawsuit.

The Department of Justice intervened in the Nosalek vs. MLS Pin settlement and called for 'decoupling' commissions. This recommendation has faced great opposition from several stakeholders in the industry, including several MLSs.

The Council of Multiple Listing Services (CMLS), a trade association with around 225 MLSs, filed an amicus curiae brief on March 27th, as reported by [Inman](#). Northwest MLS followed suit, filing a separate amicus brief on the same day.

The filing asks the court to disregard the DOJ's statement of interest. The Council states that the DOJ's recommendations won't have the impact it intends and may harm the consumer's interests.

Want to brush up on the Nosalek lawsuit? We have a full video explaining the battle *and* DOJ's intervention in it.

[Nosalek vs MLS PIN: Department Of Justice Intervenes](#)

What Does the Council Say?

CMLS believes DOJ's statement of interest 'lacks empirical support, conflicts with the Sherman Act principles, and has negative implications for consumers.'

In their statement of interest, the DOJ cites the Northwest MLS (NWMLS) as an example. The Department claims the rule changes the NWMLS implemented in Oct. 2019 and Oct. 2022 were similar to the Nosalek settlement terms. However, these changes had no impact on commission rates or competitiveness.

NWMLS data refutes this. Its commission offers have been gradually decreasing since 2000, at the rate of 0.4% per year. However, since the rule changes were implemented, the rate of decline increased to an average of 1.5% per year, as reported by Inman.

This shows the terms of the Nosalek agreement would have a positive impact.

Impact of DOJ's Policy Recommendation

The CMLS has several criticisms regarding DOJ's proposed policy. It alleges:

- The DOJ's suggested ban on sellers offering compensation to buyer brokers would violate antitrust laws.
- The Department erroneously assumes transition to suggested policy change would be smooth.
- The policy may adversely impact first-time homebuyers, low-income buyers, and minorities.
- DOJ's proposal may lead to secret deals between brokers, promoting a lack of transparency.

The association also states, "DOJ assumes that the seller will pay the buyer's broker as part of the negotiated deal." It is more likely that the seller will choose an offer that doesn't include paying the buyer agent commission.

The CMLS and NWMLS filings are thorough in their defense of the Nosalek settlement. They also clearly state that the DOJ has overstepped its bounds by attempting to 'secure a major change in U.S. residential housing policy.'

The DOJ is likely to respond to this challenge soon. We will keep following the developments in this lawsuit.

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