

Competition Bureau - Calgary Herald

Ruling may open access to real estate service

Watchdog says practices limit consumer choice

By Karen Mazurkewich, Financial Post November 3, 2009

A landmark investigation by the federal Competition Bureau may dramatically change the way homes are bought and

sold in Canada.

The Canadian Real Estate Association has informed its members that a two-year inquiry by the Competition Bureau has

been completed and that significant changes to their practices have been requested.

The association is still negotiating a settlement with the Competition Bureau, but it is expected that the industry

will be forced to loosen its restrictive access to the Multiple Listing Service (MLS) system and allow discount

brokers into the market.

Specifically, the bureau has asked the CREA to change its rules that state a licensed realtor must act as an agent

for the seller through the entire time of the listing contract posted on the MLS, and that the listing agent shall

receive and present all offers and counteroffers to the seller.

In his Oct. 29 letter, CREA president Dale Ripplinger told members: "The bureau is concerned that CREA's rules have

restricted consumer choice and limited the scope of alternative business models."

"Please note that although we describe the bureau's position, CREA does not agree with the bureau's views," he

added.

"The outcome of this would be that discount brokerages would have access to MLS, which would have a very, very

significant impact on how real estate transactions are conducted in Canada," said Subrata Bhattacharjee, a

competition lawyer at Heenan Blaikie.

More significantly for Canadian home sellers, they might pay less in realty commissions and fees if the bureau gets

a favourable settlement.

At least one former discount broker is thrilled with the news.

"This is a huge win for the consumer," said Lawrence Dale, co-founder of Realty Sellers, a discount broker that closed its

doors in 2006.

He said the CREA rules, which had to be followed by all member real estate boards in

Canada, made it impossible for his company to continue to operate.

Dale added: "We are pleased the Competition Bureau agreed with us that these activities were anti-competitive and must be stopped. While it's a complete vindication for us, it's a sad and embarrassing day for organized real estate."

If CREA reverses its stance on MLS, a homebuyer's agent will be able to negotiate directly with the seller or the

seller's lawyer if the seller chooses, and not be required to have a listing agent involved in the negotiations.

In addition, consumers could pay a fee to list their homes directly on MLS.

The battle between the bureau and CREA goes back to 2002, when Dale and his former partner Stephen Moranis filed a

lawsuit against the Toronto Real Estate Board and CREA. The Competition Bureau opened an inquiry and the

association settled by agreeing to roll back some of its restrictions relating to the acceptance of listings on the

MLS system.

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