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LUXURY LENS


Will flashy gifts and open houses end once commissions decouple?

Based on conversations with luxury agents across both coasts, there's still a lot of uncertainty about how far-reaching the changes that come with commissions decoupling may be



Image by: [Tatiana Sviridova] / [Moment] via Getty Images

BY LILLIAN DICKERSON

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HAPPENING NOW! At Inman Connect Las Vegas, July 30-Aug. 1, 2024, the noise and misinformation will be banished, all your big questions will be answered, and new business opportunities will be revealed. JOIN US VIRTUALLY.

Impending industry changes that are poised to go into effect next month as a result of commission lawsuit settlements will change how agents carry out their daily business.

Exactly how practices will change is still murky, however, despite the arrival of the NAR settlement four months ago now.

Some marketing techniques not uncommon to the luxury sector specifically may be viewed in a new light following settlement terms going into effect, and in particular, the decoupling of commissions.

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Will, for example, seller agents still be able to host extravagant broker opens and open houses overflowing with Dom Perignon, caviar and pool “mermaids”? Will luxurious incentives for buyer agents, like a brand-new Mercedes Benz or a \$30,000 cash bonus, be viewed as offers of compensation? And, most importantly — will these tactics be permissible under new regulations?

Most luxury agents Inman spoke to were uncertain of how new commission rules would impact the over-the-top promotions many have come to expect from properties fetching eight digits. But NextHome CEO James Dwiggins, who has been vocal about the changes on social media and on his podcast, told Inman any type of compensation to an agent must be spelled out in a buyer-broker agreement.

“While I’m not a lawyer and have little experience in the luxury real estate space, it’s very clear to me you cannot ask for or receive any type of compensation beyond the agreed upon terms of the buyer representation agreement,” Dwiggins wrote to Inman.

“Brokers better have a very clear policy on this with their agents to avoid getting sued. And certainly, if this becomes a big issue, expect lawyers to sue for another payday or even the DOJ getting involved. I can also tell you with 100 percent certainty that brokerages and agents do not want the full weight of the federal government with an unlimited budget bearing down on them... The risk is not worth the reward.”

Luxury agents Inman spoke with believe big open houses and buyer-broker perks will remain popular among luxury sellers, but with changes. Others weren’t willing to guess. Here’s how the opinions are shaking out.

NOT MUCH WILL CHANGE



Beau Blankenship

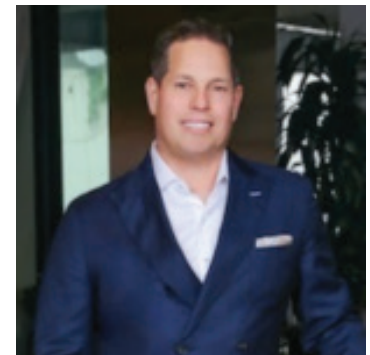
When a luxury client needs to sell quickly for one reason or another, they will do everything in their power to make it happen. One of the ways they can accomplish this is to offer a buyer agent a bonus, in the form of cash or a high-end asset like a car, in order to bring a qualified buyer to the closing table within a certain time frame.

Agents in LA saw this in practice at an intense pace just before the ULA tax on properties priced at or above \$5 million was enacted in April 2023. But Beau Blankenship of Santa Rosa Beach in Florida said he's had clients who have been similarly incentivized. And he doesn't expect that to change.

"I still think we're going to see sellers pay [buyer-agent bonuses]," the team leader of The Blankenship Group at Engel & Völkers told Inman. "I don't think we're going to see it go away. I think it's going to be hard to get buyers to show listings to without central compensation. I could be wrong, but that's just my take."

NO IDEA HOW THIS WILL WORK IN THE FUTURE

Danny Brown of Compass, who is based in Beverly Hills, said he's been invited to thousands of Coachella or Playboy Mansion-esque open houses over the course of his career in the luxury haven. But at the ultra-luxury level, clients typically know exactly what they want, when they want it and how much they're willing to pay for it. Added incentives offered from a seller to a buyer agent probably won't make any difference.



Danny Brown |
Compass

"It's a lot of smoke and mirrors, offering these significant incentives," Brown said. "Because our buyers are going to dictate what house they want to buy at that ultra-high-net-worth level, and I'm not going to persuade my buyer to buy something that they don't love because they're going to offer me a Ferrari. That would matter 0 percent."

But, Brown added, for the seller who really wants to dangle a \$200,000 bonus in front of a buyer agent who can get the deal done quickly, he has no idea what the allowability of that will be moving forward.

“I’d have to dive into that, and after that, talk with my compliance department, because it’s a good point — it may be that they won’t allow that because they’ll consider that some sort of steering or influence,” Brown said.

“We are in completely new territory, uncharted waters and nobody has any idea what to do or how it’s going to play out,” he added.

AGENTS WILL DOUBLE DOWN ON EXTRAVAGANT GESTURES — WITH ADJUSTMENTS



Gio Helou |
Oppenheim Group

“I’m actually going in the other direction,” Gio Helou of The Oppenheim Group said when asked if he thought he’d need to pare down the flashy open houses that he’s become known for on Selling the OC. (Helou also famously threw himself a party that featured a life-sized ice sculpture of himself after closing \$100 million in sales.)

“It’s going to be more over-the-top than ever before,” the luxury agent told Inman, describing the champagne bar,

lavish food spread and music in store for his upcoming open house, which he imagines will mirror the profile of the home’s potential buyer.

One adjustment Helou has made at his open houses is to require potential buyers who attend and are not actively working with an agent to sign a contract for that home showing specifically. However, he believes this will bear no impact on how much money he can pour into those open houses.

Ben Bacal of the Side-backed Revel Real Estate agreed that lavish gestures like grand open houses and buyer agent gifts would “for sure” continue.

“It’s the prerogative of the seller if they want to do that,” Bacal said. “It’s our fiduciary [duty] to give them the information and then they can make a decision.”



Ben Bacal

Bacal added that agents will simply need to disclose bonuses and other incentives through outlets outside of the MLS. Bacal himself uses the home discovery social app Rila to advertise commission compensation offers, a kind of crowd-sourced marketplace Bacal developed in 2019 that allows agents, buyers and sellers to discuss listings together.

Agents in the greater LA luxury market have had to deal with their fair share of challenges recently, between Measure ULA going into effect a little over a year ago (which added an additional transfer tax to sellers of properties priced at \$5 million and above), insurance coverage woes and a recent increase in crime.

Those are all reasons why agents in the market are more willing than ever before to collaborate and make things easier on each other, Paul Salazar of Hilton & Hyland said.

“There’s a lot of things going against the industry right now and we’re seeing a lot of agents having conversations, collaborating together,” Salazar said. “Having conversations about, ‘Hey, this is how we should be doing this moving forward, to help consumers, and also to keep this industry alive and moving.’ So I think you’ll continue seeing the buyer [agent] incentives.”



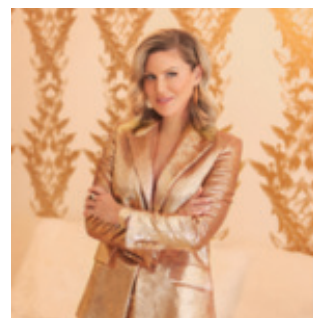
Paul Salazar |
Hilton & Hyland

Salazar said that he expects disclosures about all those incentives to be added to updated listing agreement forms that the California Association of Realtors is developing, or that they’ll need to be added as an addendum to a contract, at the least.

“I think it’s all about disclosure,” said Erin Sykes, Nest Seeker International’s chief economist and real estate wealth advisor.

She said that she doesn’t expect much about open houses to change in the wake of commissions decoupling, but that there are already three different versions of buyer-broker agreements floating around in Florida, including an initial agreement on how much buyer agents will be compensated and another new contract if that figure changes at all over the course of negotiations.

If a seller is feeling generous enough to want to throw in a Mercedes to the buyer agent who can help seal the deal in a short time frame, Sykes said it will likely need to only be addressed in some kind of disclosure form that includes the value of the gift.



Erin Sykes, Nest
Seekers International

But she also said she imagines the entire process will likely go through several iterations before becoming standardized.

“I think that paperwork is going to change a few times before we settle in on the final paperwork,” Sykes said.

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