New York State Association of REALTORS®, Inc.

New York State Association of REALTORS®, Inc.
130 Washington Avenue | Albany, NY 12210-2220
P 518.463.0300 | F 518.462.5474
info@nysar.com | www.NYSAR.com

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NYSAR Testimony

New York City Department of Consumer and Worker Protection Public Hearing – Proposed rules regarding hidden "junk fees"

The New York State Association of REALTORS®, Inc. (NYSAR) is a not-for-profit trade organization representing more than 60,000 of New York State's real estate professionals. NYSAR appreciates the opportunity to provide comment on DCWP's proposed rule prohibiting charging consumers hidden "junk fees."

While NYSAR understands the intent of the proposed rule, its overly broad nature as currently drafted raises several substantive concerns from licensed real estate professionals conducting business in New York City. Truly excessive and unwarranted "junk" fees warrant government scrutiny, however NYSAR is particularly interested in further clarity as to whether the proposed rule would apply to the legitimate fees charged by licensed real estate professionals and/or their clients.

The proposed rule requiring clear and conspicuous disclosure of "any fee or charge" is problematic as these fees can vary when taking into account real estate broker compensation. All compensation rates and fee structures are fully negotiable directly between consumers and their respective agent in any real estate transaction or lease agreement. Displaying these "fees" or attempting to factor them into the "total price" would be careless and possibly misleading due to the nature of the transaction.

Furthermore, if brokers are required to display compensation on all real estate listings and advertisements, this raises significant anti-trust concerns and could adversely impact competition among real estate brokerages thereby creating potential harm to consumers.

Additionally, existing state and local laws already address the issue of allowable fees and the disclosure of such fees that can be charged by a landlord.

Other types of paid services that are associated with a real estate transaction such as home inspections and title insurance as well as fees charged for applying to purchase or rent a cooperative unit may fall under this rule. These amounts may not be known at the time a real estate licensee lists or advertises a property for sale or rent.

Through this public hearing process, NYSAR is seeking more clarity around the applicability of the proposed rule and is hopeful that any final rule takes into consideration the above concerns in order to protect both consumers and licensed real estate professionals that serve them.

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