

FIRST PERSON

Legislative proposals that impact housing markets and brokerages

by Steve Murray

From making significant changes to the tax code to nationalizing the California independent contractor rules, the Biden administration has many legislative proposals embedded in their plans that could have a material impact on housing markets and brokerage.

I don't claim to be an expert in any of these. I would like to give credit to those who likely spent much more time analyzing their impact. Here are a few thoughts.

The award of cash allowances to first-generation homebuyers sounds like a very useful program. This would assist lower income, first-time buyers to have a better chance to enter the homeowner-ship ladder which history has shown to be strongly correlated to future wealth of a household. The challenge, as we have commented elsewhere, is that we do not have a demand problem. The issues are on the supply side. While this proposal is both targeted and useful, one wonders how many will benefit.

If the real target is to help low-income, first-generation and first-time homebuyers to get into the market, might a better approach be to underwrite the building and financing of housing targeted at and made available only to these households?

The elimination of the \$10,000 limit on the deductibility of state and local taxes on Federal tax returns (SALT) has little to do with improving access to the housing market and mostly to do with easing the loss of high-income households who are departing high-cost, high-tax states. The resulting loss of taxable income in several of these states, due at least in part to the SALT limitations, has begun to have a measurable impact on the financial health of some of these states. The Center on Budget and Policy Priorities issued a report stating that the top 1% of all households would receive 56% of the benefit of such a repeal, while the top 5% of households would receive nearly 80% of all the benefits. The SALT limits are estimated to generate over \$185 billion over a 10-year period. Whether an increase in the personal tax rate would offset the decline in repeal is unknown. But it does not appear to have any measurable impact on housing sales or housing values given the increases in average sales prices in the high-cost states that were most affected.

Another proposed change is the repeal of the 1031 exchange section of the Federal tax code. According to various studies I've reviewed, such a repeal or limitation would affect a large segment of transactions — mostly high-tax states — and would raise the cost of capital and debt burdens on an important segment of the investment market. Some studies suggest that this legislative proposal would have a minor effect on GDP and tax revenues, but it's uncertain what the true impact of such a change would be. Clearly, it may impede some investment activity in this segment of the market and raise the cost of such investing for a certain segment of real estate.

There are several respected economists who view the \$1- \$2 trillion proposed infrastructure package as being pro-housing. Part of the legislative proposals call for the rehabilitation of 500,000 homes in low and middle income areas. Clearly, this part of the bill would be very pro-housing. In addition, another portion of the plan proposes building over two million affordable homes. Were this to be done effectively, then it would have a significant positive effect on the housing market. As we've said,

demand is not the problem – it is supply – and anything the Federal government can do to stimulate supply is a huge plus for the housing market.

The House has passed a bill called the PRO Act which, among other items, calls for extending the California regulation on independent contractors and is referred to as AB 5. Under AB 5, there are three key tests as to whether a person qualifies as an independent contractor. Failure on any of the three could mean a person cannot be so qualified. Realtors fail at least one and, possibly two, of the tests.

Under the PROAct, this standard would be imposed throughout the country. While California Realtors sought and won an exclusion from this Act, whether other states would prevail in getting excused is another big question. While the AB 5 standard may not have been intended to be used against Realtors, it remains to be seen whether the bill will make it through the Senate and, if it gets through the Senate, will the AB 5 standards survive rewrites or amendments?

Steve Murray is a senior advisor for RealTrends and a partner with RTC Consulting based in Castle Rock, Colorado. ■

Ninja tips for living life on purpose

by Larry Kendall

Are you living life on purpose or by accident? By design or by default? The most successful and purposeful people I know live their lives in what I call 5G. Right now, telecommunications companies are building a 5G (fifth generation) network that will provide a more robust online experience. Committing to the following 5G's will provide you with a more robust living experience.

1. **Gratitude.** It starts with gratitude. The most important hour of your day is the first hour. Start your day right with your gratitudes. Giving thanks puts you in a positive energy state. You have a positive vibe and “your vibe attracts your tribe.” Harvard psychologist, Shawn Achor, notes that when you are positive, you have a “Happiness Advantage” and are more successful in everything you do – especially sales.
2. **Goals.** Goals are your rocket fuel that motivate you to work hard and keep going. Your biggest goals are called your “Why”. As Mark Twain said, “The two most important days in your life are the day you are born and the day you discover the reason why.”

Unfortunately, many people don't have goals. They are *drifters*. They take life a day at a time and tend to focus on being entertained. They are living on default. As a manager, what can you do if you have drifters in your company? Help them discover their “Why” using Motivational Interviewing – *a psychotherapeutic approach that attempts to move an individual away from a state of indecision or uncertainty and towards finding motivation to making positive decisions and accomplishing established goals.*

3. **Grit.** Grit is “the ability to carry through on a commitment long after the motivation in which it was made has left you.” How often do you read a book, hear a speaker, or come out of a class all fired up to do something? Do you act, or do you lose your enthusiasm?

If your goals are important enough to you, you will most likely have the grit to take carry through on your commitment. The key is to get started. As Friedrich Nietzsche says, “He who has a why to live can bear almost any how.”

4. **Grace.** Grace has many definitions in the religious traditions. However, the dictionary definition is “a polite and thoughtful way of behaving.” In a world that’s increasingly polarized and uncivil, being gracious is a very unique characteristic – and a skill of most successful people.

A study by Thomas Corley, and documented in his book *Rich Habits*, notes that wealthy people have a filter with only 6% of them speaking their mind. In contrast, 69% of poor people don’t have a filter and tend to speak whatever is on their mind. As Corley says, “Would you rather be right or rich?” If you want to build relationships with diverse clientele, hold your tongue, and stay out of emotionally charged debates. Napoleon Hill calls it having an “attractive personality.” Be polite and have a thoughtful way of behaving.

5. **Giving.** In their book, *The Go-Giver*, Bob Burg and John David Mann make the case that “Our true worth is determined by how much more we give in value than we receive in payment.” This is often called “adding value.” Money flows to those that create the most value. As a result, “the more you give, the more you have.”

Live your life in 5G and you will be living on purpose. Help others do the same and you will change lives.

Larry Kendall is the founding partner of *The Group, Inc* and founder of *Ninja Selling*. ■

How will the end of non-compete agreements impact real estate brokerage?

The Biden administration seeks to end use of non-compete agreements in employment practices. How will that impact the real estate industry?

by Steve Murray

In virtually all sales of brokerage firms we are aware of, those who receive a gain from the sale of their realty company enter into restrictive covenants which include non-compete, non-solicitation and non-disclosure agreements. The time period of these covenants ranges from a low of three years to as long as 10 years, and the geography they cover ranges from 100 miles from the location of the seller to as much as several states. In some cases, when firms are recruiting agents through the provision of financial assistance of some kind, even the agents and teams are often required to enter into some form of these restrictive covenants with many of the same features.

It appears that the move by the Biden administration to end non-compete agreements may not have a significant impact on practices currently in place in our industry. However, it could have a large impact were the Biden administration broaden their attempted prohibition to include non-solicitation. In such a case, we would think this could cause purchasers of residential brokerage firms to amend their acquisition activities and at the least restructure the terms of their purchase agreements.

Little enforcement of non-compete provisions

Over the past 30 years of consulting to the brokerage industry and the merger and acquisition of brokerage firms, RealTrends has been called to testify several times about these restrictive covenants — non-compete agreements. In almost every case, the defendants were brokerage owners who violated their restrictive covenants either by competing with the purchaser of their firm, soliciting agents and employees of their former company or both. In almost every case that we can recall, judges did not enforce the non-compete provisions of the restrictive covenants but almost always enforced the non-solicitation part of the restrictions.

So, the legal system seems to be saying that a non-compete agreement is not always valid, that they will not restrict someone's right to do the work they were trained for, and that person may not do that work in a way that causes direct harm to the entity that paid them money for their brokerage firms. The list of persons covered by these restrictive covenants in an acquisition generally includes anyone who financially benefitted from a sale.

What about non-solicitation?

Such restrictive covenants are also in place at many leading brokerage firms for their sales management personnel. And again, in the cases we are familiar with, courtrooms have found that while the non-compete agreement portions of the restrictive covenants are not normally upheld, the non-solicitation and the non-disclosure parts of the covenants are upheld — stringently in some cases.

If non-compete and non-solicitation agreements are non-enforceable, either for sellers of brokerage firms or for their sales management employment practices, it could cause significant change in both areas.

Steve Murray is a senior advisor for RealTrends and a partner with RTC Consulting based in Castle Rock, Colorado. ■

The two biggest threats to brokerage business

The best brokerage know that complacency and loss of business culture are their two biggest threats. What can you do about it?

by Tracey C Velt

Sometime ago, the leader of a large brokerage operation asked me a question while I was sitting in front of the senior leadership team. The question was: “What are the biggest dangers to our organization.” The answer: complacency and culture.

The first great danger is complacency

With great success, financial rewards and leading market share often comes a sense of ‘well we made it, we were more right than wrong and look at how well we are doing.’ It’s only a matter of time before the small things start to be overlooked. That leads to weaker performance and, in far too many cases, leadership looks for someone or something to blame for a decline in key performance metrics.

As Andrew Grove, former CEO of **Intel** (at its height) wrote, ‘only the paranoid survive.’ In our industry this has never been truer. Given the number of well-funded new competitors in the brokerage industry, anyone who isn’t a bit paranoid needs to re-examine their view.

No brokerage model and business proposition is safe in brokerage. If you take any part of your business for granted — relationships with your agents, gross margin or capture rates — and you can rest assured you are heading for a fall.

The second is loss of culture

After over 40 years observing this industry, it’s clear that business culture is more than just a buzzword. We have watched brokerage organizations of all kinds rise and fall regularly. Looking back at both regional and national leaders, it’s safe to say that, since we first started tracking these firms, there are few that were on top in 1990 that are still on top today.

At the national level, there have been four different firms that led the nation in housing sales. In most regional markets, reviewing the [RealTrends 500 Market Leaders Report](#), we find a handful of brokerage firms who were the largest firms in their markets then and now.

While some of this is clearly attributable to competition from new and lower-cost models, just as much is due to the loss of the defining and uniting culture that led the firm to the top in the first place.

What I've observed is that it's a powerful and enduring culture that drives growth as much as any other factor. When an organization starts valuing its metrics or the money earned over the culture, that organization will start to slowly bleed out. This has happened many times in the past 40 years.

Many ways to measure success

A related issue is what leaders value in terms of metrics. There are many ways to measure success but certainly two of the most common are market share and profitability. When you combine culture with these two metrics, many end up with a conundrum. It's difficult to maintain high levels of all three. While you may give on culture to gain share and profitability, longer term it can wreck your culture.

If you give on profitability, you may gain share and keep a good business culture, but without profit you lack the capital to fund growth.

When you give on market share while keeping strong culture and profitability, your firm is likely shrinking. These concepts may not be true for all industries, but it's always been true in residential brokerage.

So what is the answer?

The strongest firms first hold onto their culture, more than anything else. Culture is the defining strength of any business that is primarily built on relationships between people.

Profitability necessarily comes second with market share the third priority. The brokerage firms that have prospered over the long term have kept their priorities in this order. In fact we know of few firms that prosper continually when market share is favored over profitability.

With the more intense level of competition in the brokerage business, we think it's imperative that owners and leaders understand the old adage that *when you try to be everything to everybody, you end up meaning little to most.*

Culture defines what you believe, how you do things, the importance of your people and your behaviors. As one principal of a highly successful brokerage once commented, "Get your relationships, all of them — between agents and customers, your agents and other firm's agents, and with your staff — right, and it will all work fine." This is one of those rare firms that focused on culture, let go of some market share and has remained profitable.

Tracey C. Velt is managing editor of RealTrends. ■

MARKET WATCH

HOUSING OUTLOOK

Record growth drives homes values up 11.6% over last year

Persistent double-digit price appreciation in home values evokes 2007, but underlying forces show this is not a bubble.

by Tracey C Velt

Seemingly endless demand and low supply have driven record-breaking home value appreciation over the past year, [Zillow's® latest Market Report](#) shows. April pushed the envelope even further: Annual home value growth for a typical U.S. home is 11.6%, the highest seen since 2005.

Today's rapid rise in prices may recall that of the mid-2000s, stoking unfounded fears of another overheated market. Google searches for "housing bubble" reached their highest point in nearly three years in April. But [unlike the run-up to the mortgage crisis](#), this market is built on strong fundamentals with long legs, said Zillow economist Jeff Tucker.

"Both of these hot markets saw extreme price appreciation in a relatively short period of time. But that's where the similarities end," Tucker said. "Unlike the combination of speculators and people spending beyond their means with non-traditional loans in 2004 and 2005, today's homebuying demand is driven by well-qualified buyers locking in traditional, fixed-rate mortgages. Builders are firing on all cylinders to meet the excess demand brought by low mortgage rates and millions of Millennial buyers jockeying for limited homes, but after more than a decade of underbuilding, homes will remain scarce until [existing homeowners feel more comfortable selling](#) or prices rise enough to restore balance."

This spring, homes are selling at record pace despite the enormous leaps in home values. Nationally, it typically only takes seven days after listing for a seller to accept an offer, while the Midwest markets of Kansas City, Columbus and Cincinnati are seeing listings disappear in just three days.

U.S. home values measured by Zillow's Home Value Index (ZHVI) reached \$281,370 in April. Monthly appreciation has been growing since May, and April's 1.3% increase over March is the largest jump in Zillow data reaching back to 1996.

Sun Belt and Mountain West markets lead major metros in annual appreciation, notably Austin (25.5%),

Phoenix (20.4%) and Salt Lake City (18.3%), though 39 of the top 50 metros are seeing double-digit increases over the year. Boise, Idaho, leads the top-100 metros with 32.5% annual value growth.

Inventory fell 1.4% month over month, continuing a trend of monthly drops that began in August. Available listings are now down 30.3% year over year. Making an aggressive or creative offer, mastering search technology and working with a knowledgeable local agent can help raise shoppers' chances of success, according to a [recent Zillow survey](#).

Zillow economists expect another year of staggering home value appreciation ahead of us, forecasting 11.8% growth through April 2022. Existing home sales in 2021 are predicted to be 10.3% higher than in 2020.

Rent growth is returning with a vengeance, with a 1.5% monthly spike that's larger than any in Zillow records reaching back through 2014. Annual rent growth reached 3%, the largest year-over-year growth since March 2020, to put typical U.S. rent at \$1,704 —\$49 higher than last year.

Monthly rent growth was led by Sun Belt standouts Austin (2.9%), Memphis (2.5%), Tampa (2.4%) and Phoenix (2.4%), and monthly rent appreciation picked up pace or held steady in all but nine of the top 50 U.S. metros. April also marked the second or third month in a row for monthly rent growth in expensive coastal metros including San Francisco, New York, San Jose and Seattle, though none of those have returned to pre-pandemic levels.

Mortgage rates did not retreat to all-time lows in April, but they were close. Rates listed by third-party lenders on Zillow began April at a monthly high of 2.89%, dropped down to 2.66% on April 22, and ended at 2.71%. Zillow's real-time mortgage rates are based on thousands of custom mortgage quotes submitted daily to anonymous borrowers on the Zillow Group Mortgages site by third-party lenders and reflect recent changes in the market.

Tracey C. Velt is managing editor of RealTrends. ■

REGULATORY

Biden announces new CDC eviction limits

Biden said the measure would apply to areas where 90% of the U.S. population lives

by Georgia Kromrei

In spite of a recent Supreme Court ruling, the **Centers for Disease Control** on Tuesday issued new limits on evictions for non-payment of rent or mortgage through October 3, 2021. The measure is virtually certain to be met with legal challenges.

The eviction limits will apply in counties experiencing “substantial and high levels” of community transmission of the coronavirus, per the [CDC order](#). The protections are means tested by income, rather than applying universally.

In a press conference Tuesday afternoon, President Joe Biden said the measure would apply to areas where about 90% of the U.S. population lives.

To be covered, a tenant must be unable to make housing payments because of a loss of income, and must make no more than \$99,000 annually, or \$198,000 in the case of joint filers. The person must have made their best effort to receive government assistance and make timely, partial housing payments. The person must also not have any other housing options, were they to be evicted.

To access the protections, tenants can fill out a [declaration form](#) and provide it to their landlord. If a tenant has already submitted a declaration form under the previous CDC eviction order, they do not need to fill

out an additional one. The form does not preclude the landlord from challenging the truthfulness of the declaration in court, however.

The CDC's announcement comes just days after the CDC's initial ban on evictions lapsed. Biden had asked Congress to pass legislation to enact a ban on evictions, since a June Supreme Court ruling cast doubt on the legality of further extending the CDC's initial eviction limits.

"Whether that option will pass constitutional muster with this administration, I can't tell you. I don't know," Biden told reporters Tuesday afternoon. "There are a few scholars have said it will, others say it's not likely to. But at a minimum, by the time it's litigated it will give additional time while we're getting \$45 billion out to people who are behind on rent and don't have money."

In June, industry stakeholders urged the Biden administration to allow the CDC's initial eviction order to lapse at the end of July as planned. That request, however, did not prove as compelling as mounting pressure to backstop renters while the Delta variant surges in parts of the country.

But Congress was ultimately unable to pass legislation to place a moratorium on evictions. Members of the House of Representatives balked at curtailing their August recess. Meanwhile, a measure to take up the issue failed to gain steam in the Senate.

In a statement, Sen. Majority Leader Chuck Schumer credited progressive Democratic legislators, including Missouri Congresswoman Cori Bush and New York Congresswoman Alexandria Ocasio-Cortez, with pushing the Biden administration to take action.

The public health agency said the new limits on evictions will allow additional time for rent relief to reach renters and to further increase vaccination rates.

"In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease," the CDC said in a statement.

In a statement, the director of the CDC, Dr. Rochelle Walensky, said that the moratorium would help keep people out of congregate settings where Covid-19 spreads.

"It is imperative that public health authorities act quickly to mitigate such an increase of evictions, which could increase the likelihood of new spikes in SARS-CoV-2 transmission," Walensky said. "Such mass evictions and the attendant public health consequences would be very difficult to reverse."

David Howard, executive director of the **National Rental Home Council**, which represents single-family rental landlords, said the measure contributed to uncertainty for both renters and rental property owners. Howard said that rental property owners have lost "billions of dollars they will never recover."

"After a nearly year-long nationwide moratorium, the federal government went from full-time landlord to part-time landlord to now something in between over a span of just three days," Howard said.

"Shame on me for assuming the moratorium would not be extended after the President announced he has no legal authority to do so nor was Congress able to pass legislation to do so."

What's next after the DOJ's withdrawal from NAR Settlement?

The U.S. Department of Justice's recent withdrawal from an antitrust agreement with the National Association of Realtors raises questions about the future of MLS and real estate commission structures. For now, though, there are no concrete answers to those questions — only speculation about what might happen next.

by John Egan

This speculation ranges from the possibility that the industry will tweak MLS and commissions on its own to the potential that the legal system will force such changes.

Real estate broker Marian Benton believes Realtors have no issue with any MLS or commission adjustments that improve consumer protection, “because they work to get the best deal for their clients, both on the selling side and on the buying side.”

“So if the DOJ is going to come up with something which is going to help us to do that, then rock on,” said Benton, regional operating principal for Keller Williams Realty in Southern California’s Inland Empire region and operating principal for Keller Williams in the Ann Arbor, Michigan, market.

Benton stressed that she was speaking in her personal capacity and not on behalf of Keller Williams.

The agreement, announced last November, was aimed at resolving issues raised by the DOJ surrounding the MLS and broker real estate commissions. Among other things, the pact called for supplying more information to consumers about broker commissions and opening up lockbox access to agents who don’t participate in the MLS. But on July 1, DOJ pulled out of the agreement, citing the restraints it placed on a wider investigation of NAR’s rules and practices.

In a statement, NAR objected to the DOJ’s action. The group said the MLS is designed to incentivize cooperation among brokers who share information on the platform. Meanwhile, NAR added, the complementary commission arrangement — where the seller’s broker shares commission with the buyer’s broker in exchange for bringing a buyer to the table — “ensures greater equity for first-time, low-income and countless other home buyers who otherwise wouldn’t be able to afford a home and professional representation.”

NAR warned that if the DOJ doesn’t uphold its end of the deal, the group will “aggressively protect and defend any challenge to the rights of consumers to have access to a system that is pro-consumer, pro-competitive and creates a highly efficient market for the benefit of home buyers and sellers.”

A series of assaults?

Steve Murray, senior adviser at RealTrends, said the now-revoked settlement between DOJ and NAR is a continuation of “a series of assaults” by the likes of discount brokerage REX, the nonprofit Consumer Federation of America and others against a system that works the way it was meant to. Murray insists that those who’ve launched these assaults have, thus far, failed to prove their case.

“It looks like we’re going to go through another whole round of court cases to prove *what?*” said Murray, adding that REX, the Consumer Federation of America and others keep “smearing” Realtors in this ongoing battle. “They haven’t proven anything — not yet.”

In a salvo directed at REX, the Consumer Federation of America and others in their camp, Murray said: “Well, let’s go ahead. Let’s get into the courtroom and prove your case. Show that consumers have been harmed.”

The other side

In a [news release](#), REX co-founder and CEO Jack Ryan praised the DOJ’s decision to pull out of the NAR settlement. Ryan called it “a sign of hope for home consumers that the federal government is standing up to finally hold the real estate cartel accountable for overcharging home sellers and buyers tens of thousands of dollars on every transaction and steering consumers to line their own pockets.”

In a separate [news release](#), Stephen Brobeck, a senior fellow at the Consumer Federation of America, also applauded the DOJ’s move. He said the settlement would not have meaningfully altered “a marketplace with high, fairly uniform commissions” and would have undercut several class-action lawsuits seeking to boost price competition.

Brobeck told RealTrends that he thinks Realtors will strive to hang on to current real estate commission levels and will likely succeed in the absence of intervention by the DOJ, the courts or both.

Murray said he thought the settlement between DOJ and NAR would have led to changes along the lines of those enacted two years ago by the Seattle area’s Northwest MLS. In October 2019, new Northwest MLS rules took effect that:

- Let real estate firms publish online the amount of real estate commissions the seller is offering to pay a broker representing the buyer (known as the “selling office commission,” or SOC).
- Lifted the requirement that a seller offer a SOC when listing a property for sale and, if there is no SOC offered, enabling the buyer and buyer’s broker to negotiate compensation for the buyer’s broker.

But, for now, any changes that might have arisen from the settlement are in limbo. In the meantime, real estate professionals wonder what the future holds.

What does the future hold?

Daryl Fairweather, chief economist at real estate brokerage Redfin, said she worries about the MLS model potentially fracturing to that point where only Compass listings would appear on the Compass website and only Redfin listings would appear on the Redfin website.

“I don’t think that would be good. It would end up adding more work for consumers to find homes,” Fairweather said. “I think the [MLS is useful](#) for having everything in one centralized location.”

The fracturing of MLS, she added, would “mean that the consumer will have a harder time knowing that they are seeing all the listings that are actually available because they’d have to work to find where those listings are advertised if they weren’t all in one central location.”

Meanwhile, Fairweather believes the crumbling of MLS would encourage more agents to embrace so-called “[office exclusives](#).” In these situations, listings are marketed throughout a brokerage but not within MLS.

Furthermore, a breakdown of the MLS model would consolidate power among large brokerages and make it tougher for smaller independent brokerages to compete, said Alina Ptaszynski, corporate communications manager at Redfin. She noted that the sharing of listings through MLS benefits Redfin's business model.

"The MLS is kind of a unique marketplace that you don't see in a lot of other industries," Ptaszynski said. "There's certain things about the MLS that can likely be improved to encourage more innovation."

One of those improvements, she said, would be letting agents do business across state lines without paying for access to several MLS setups.

Pressure on commissions

As it relates to commissions, Frank Spencer, operating principal and broker at Keller Williams College Park in Upland, California, said he believes dissolution of the agreement between DOJ and NAR will pressure the industry to examine whether a buyer should cover compensation for the buyer's broker and the seller should cover compensation for the seller's broker. Spencer stressed that he was speaking in his personal capacity and not on behalf of Keller Williams.

He noted that this possible shift would come amid increasing compression of commission rates, with the previous "gold standard" of 6% for both sides having been whittled in many instances to 5% or less.

According to RealTrends data, the average national commission rate has been consistently falling for years, and it has nothing to do with a "new era of transparency," says Murray. According to RealTrends data, we've set a new, low average national commission rate, in the range of 4.9 to 4.94 percent, down from 5.40% in 2012.

Transparency about compensation helps, rather than hurts, real estate agents and actually bolsters the value that agents bring to the table, according to Spencer. How so? The more real estate data that home buyers and sellers consume, he said, the more they need real estate professionals to help interpret it.

"I'm not concerned that we might lose our secret sauce if data and data protection go away and it becomes open-source," Spencer said.

Changes on the horizon related to MLS and real estate commissions ultimately offer a chance to "simply and perfect our craft," he said.

"I tend to be a believer that transparency is a good thing, and that our core value isn't showing houses. Our core value is in negotiating the transactions and protecting the consumer," Spencer said.

Benton, the California and Michigan broker, said: "The National Association of Realtors has got ample information and evidence to show that people who buy from for-sale-by-owners usually end up paying more money than they would if they had a Realtor negotiating the deal for them, and people who go out and find houses on their own invariably get ripped off."