

The Northern Fairfield County Association of REALTORS® , Inc.

Antitrust Policy

Issued by the NFCAR Board of Directors

Introduction

The purpose of this policy is to assist all members, officers, participants, and staff in gaining insight into those portions of the Federal antitrust laws applicable to the day-to-day business and activities of The Northern Fairfield County Association of REALTORS®, Inc. and how it copes with them.

Antitrust laws are thought applicable only to the private business community. However, they also apply to trade associations and their members to a particular degree. A trade association by nature is a combination of competitors, which has the capacity of being a conduit for collusive action resulting in illegal restraint of trade. Being continually cognizant of this it is the policy of The Northern Fairfield County Association of REALTORS®, Inc to comply strictly and in all respects with the antitrust laws. As a practical matter, such compliance is almost always, also a safeguard against violation of antitrust statutes.

Basic Antitrust Laws

Portions of two of the principal antitrust laws are applicable to trade associations: they are Sections 1 and 2 of the Sherman Act which prohibit contracts, combinations and conspiracies in restraint of trade and monopolization and attempts and conspiracies to monopolize; and Section 5 of the Federal Trade Commission Act, which establishes broad prohibitions against unfair methods of competition and unfair or deceptive business acts or practices.

A violation of the Sherman Act is a felony, for which an individual may be imprisoned for up to three years and fined up to \$350,000. Corporate violators may be fined up to \$10 million. Courts have the power to impose fines more than those amounts, by fineing defendant either twice the pecuniary gain derived from the offense or twice the pecuniary loss caused by it, whichever is greater. Thus, the possible ramifications for those found guilty of price fixing, bid rigging, market allocation among competitors, or other types of hardcore antitrust violations are severe.

The Government normally treats other types of Sherman Act violations as civil offenses punishable by injunctions. In a few cases involving trade associations and other membership organizations, the relief sought by the Government has included the dissolution of the organization. Also, the law encourages private parties to sue if they have been injured by antitrust violations. As a special incentive to bring such suits, successful antitrust claimants receive three times the damages that they establish, plus their reasonable attorneys' fees.

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Because these laws speak in general philosophic terms, it is often difficult to know whether a certain course of action or an association practice specifically violates the law. It is for this very reason that The Northern Fairfield County Association of REALTORS®, Inc. feels it is imperative to publish at least the basic principles it follows in the conduct of its business, with the intention of having a living document to be amended and updated when a particular principle needs to be added, or an existing one needs to be restated to comply with new statutory or case law.

Antitrust Policy Principles of The Northern Fairfield County Association of REALTORS®, Inc.

1. Price fixing and boycotts, express or implied, are in and of themselves (per se) violations of the law. The Northern Fairfield County Association of REALTORS®, Inc will not permit any discussions or exchanges of information regarding prices or other terms and conditions of service that may affect price (including rebates, referral fees, discounts, profit margins, and cost factors) at any Association meeting or other meeting to which it is a party.
2. The Northern Fairfield County Association of REALTORS®, Inc. will not deny membership to a person or firm if such denial unreasonably restrains trade, nor will a member be expelled except in accordance with the Code of Ethics and the policies and procedures of the National Association of REALTORS®, Inc. The Code of Ethics shall not be used to attack otherwise legal business practices.
3. Whenever the Northern Fairfield County Association of REALTORS®, Inc. becomes involved in statistical reporting, it will clearly spell out its purposes and uses, which will be to provide information to assist members in business decisions and not to restrict competition. Such statistics will deal only with past transactions and will be reported to a third party, such as a certified public accounting firm, if possible, and will be disseminated only in aggregated form.
4. If you have any questions or antitrust concerns relating to the Northern Fairfield County Association of REALTORS®, Inc. programs, meetings, or activities, consult with Richard Eimicke, Association Executive of NFCAR or your legal counsel.
5. These same standards of conduct are to be observed at all informal or social discussions at the sites of any Northern Fairfield County Association of REALTORS®, Inc. meeting.

Conclusion

While it is impossible to cover every contingency that might arise, it is essential that Association members, the Board of Directors, and the officers and staff have at least a basic understanding of the Federal antitrust laws. The Northern Fairfield County Association of REALTORS®, Inc. unequivocally supports the policy of competition served by the antitrust laws and reaffirms its intent to comply strictly in all respects with those laws. We commend to you the basic principles contained in this document.

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