

# **PASSAIC COUNTY ASSOCIATION OF REALTORS®**

204 Berdan Avenue • Wayne, New Jersey 07470

## **Antitrust Policy**

### **Introduction**

The Passaic County Association of REALTORS® is a not-for-profit organization affiliated with the National Association of REALTORS® and the New Jersey Association of REALTORS®. The Association is not organized to and may not play any role in the competitive decisions of its members, nor may it in any way restrict competition among its members or potential members. Rather it serves as a forum for the free and open discussion of diverse opinions without in any way attempting to encourage or sanction any particular business practice.

Among the many functions of service to its members and the public which it serves, the Association provides a forum for the exchange of ideas in a variety of settings including its annual meeting, educational programs, committee meetings, and Board of Directors meetings. The Board of Directors recognizes the possibility that the Association and its activities could be viewed by some as an opportunity for anti-competitive conduct. Therefore, this statement supports the policy of competition served by our nation's and state's Antitrust Laws and to communicate the Association's uncompromising policy to comply strictly in all respects with those laws.

While recognizing the importance of the principle of competition served by the Antitrust Laws, the Association also recognizes the severity of the potential penalties that might be imposed on not only the Association but its members as well in the event that certain conduct is found to violate the Antitrust Laws. Should the Association or its members be involved in any violation of federal/state Antitrust Laws, such violation can involve both civil and criminal penalties that may include imprisonment for up to 3 years as well as fines up to \$350,000 for individuals and up to \$10,000,000 for the Association plus attorney fees. In addition, damage claims awarded to private parties in a civil suit are tripled for antitrust violations. Given the severity of such penalties, the Association intends to take all necessary and proper measures to ensure that violations of the Antitrust Laws do not occur.

### **Policy**

To ensure that the Association and its members comply with Antitrust Laws, the following principles will be observed:

- The Association or any of its committees, or activities of the Association shall not be used for the purpose of bringing about or attempting to bring about any understanding or agreement, written or oral, formal or informal, expressed or implied, among two or more members or other competitors with regard to prices or terms and conditions of contracts for the brokerage and other services provided by members of the Association, including, but not limited to, sellers, buyers, owners, tenants and others, the relationship between brokers and salespersons and selling and listing brokers. Therefore, discussions and exchanges of information about such topics will not be permitted at Association meetings or other activities.

- There will be no discussions discouraging or withholding patronage or services from, or encouraging exclusive dealing with, any real estate agency, licensee, supplier or purchaser or group of suppliers or purchasers of products or services, any actual or potential competitor or group of actual potential competitors, or any private or governmental entity.
- There will be no discussions about allocating or dividing geographic or service markets or clients or customers.
- There will be no discussions about restricting, limiting, prohibiting, or sanctioning advertising or solicitation that is not violative of the laws and ethical standards which govern Association members.
- There will be no discussions about discouraging entry into or competition in any segment of the marketplace.
- There will be no discussions about whether the practices of any member, actual or potential competitor, or other person, are unethical or anti-competitive, unless the discussions or complaints follow the prescribed due process provisions of the Code of Ethics and Arbitration Manual promulgated by the National Association of Realtors and adopted by the Association.
- Certain activities of the Association and its members are deemed protected from Antitrust Laws under the First Amendment right to petition government. The antitrust exemption for these activities, referred to as the Noerr-Pennington Doctrine, protects ethical and proper actions or discussions by members designed to influence: 1) legislation at the national, state or local level; 2) regulatory or policy-making activities (as opposed to commercial activities) of a governmental body; or 3) decisions of judicial bodies. However, the exemption does not protect actions designed to cover-up anticompetitive conduct.
- Speakers at committees, educational meetings, or other business meetings of the Association shall be informed that they must comply with the Association's Antitrust Policy in the preparation and the presentation of their remarks.
- Meetings will follow a written agenda approved in advance by the Association or its legal counsel. Minutes will be prepared after the meeting to provide a concise summary of important matters discussed and actions taken or conclusions reached.

At informal discussions at the site of any Association meeting all participants are expected to observe the same standards of personal conduct as are required of the Association in its compliance.

May 1, 2006