

# DOJ Is Still Keeping a Close Eye on Agent Commission Rules

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Bradley Weber, co-leader of Troutman Pepper Locke’s Antitrust Practice Group, was quoted in the January 6, 2026 *HousingWire* article, [“DOJ Is Still Keeping a Close Eye on Agent Commission Rules.”](#)

Despite this, **Bradley Weber**, a co-leader of Troutman Pepper Locke’s antitrust practice, was a bit caught off guard by the DOJ’s recent action in the Davis suit.

### Housing is a populist issue

“Under the Biden administration, the DOJ and the Federal Trade Commission(FTC) were very active, filing statements of interest and taking positions in cases both in real estate and outside. It is a little surprising that even under Gail Slater that the DOJ would take such a hard view on these antitrust issues, but I think the real reason is that housing is something everyone has to pay for so it is a very populist issue,” **Weber** said. “So, I think the DOJ is looking at any kind of antitrust violations that could affect housing prices or rental properties and they are making their position known by filing these statements of interest.”

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“The purpose was really to inform the court on the government’s view of whether or not industry rules could create a per se agreement among competitors,” **Weber** said. “The DOJ wanted to state on the record its position that there are situations including possibly this one, if the plaintiffs have properly alleged the facts, where industry rules could be a per se violation of the Sherman Act.”

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Also taking what may be seen as a controversial view is **Weber**, who said that he agreed with the DOJ that an industry rule promulgated by a trade association or professional association could constitute a per se violation of the law.

“I don’t think that just because it’s a trade association and it promulgates a rule that that automatically means that the court should analyze it under the rule of reason,” **Weber** said. “The statement of interest cites several cases, including Supreme Court cases dealing with NAR rules, that make it pretty clear that if a trade association’s rules are anticompetitive and would otherwise constitute a violation, the association is not shielded

just because the rules were adopted under the guise of a trade group.”

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