



Residential Seller Advisory

When in doubt – disclose!



Sellers are obligated by law to disclose all known material (important) facts about the property to the buyer. Arizona law requires that you disclose material facts about the property whether or not you are asked by the buyer or a real estate agent, or when asked to complete a disclosure form. There are also some very specific seller disclosures that you are required by statute to make. For example, sellers are required to disclose information on lead based paint in homes built prior to 1978, and if the property is in the vicinity of a military or public airport. You may also be required to complete and record an affidavit of disclosure if you are selling property in an unincorporated area of a county.

If the buyer asks you about an aspect of the property, you have a duty to disclose the information, regardless of whether or not you consider the information material. You also have a legal duty to disclose facts when disclosure is necessary to prevent a previous statement from being misleading or misrepresented: for example, if something changes. However, a seller does not generally have a legal obligation to correct defects in the property, as long as the defects are disclosed. Any correction of the defects is a matter of contract negotiation between you and the buyer.

If you do not make the legally required disclosures, you may be subject to civil liability. Under certain circumstances, nondisclosure of a fact is the same as saying that the fact does not exist. Therefore, nondisclosure may be given the same legal effect as fraud.

The Arizona Association of REALTORS® Seller's Property Disclosure Statement ("SPDS") is designed to assist you in making these legally required disclosures and to avoid inadvertent nondisclosures of material facts.

You should complete the SPDS by answering all questions as truthfully and as thoroughly as possible. Attach copies of any available invoices, warranties, inspection reports, and leases, to insure that you are disclosing accurate information. Also, use the blank lines to explain your answers. If you do not have the personal knowledge to answer a question, it is important not to guess — use the blank lines to explain the situation.

The SPDS is divided into six general sections:

- 1) Ownership and Property:** This section asks for general information about the property, such as location, ownership and occupancy. Any seller, whether or not that seller has actually lived in the property, should be able to answer most, if not all, of the questions in this section.
- 2) Building and Safety Information:** This section asks for information regarding the physical aspects of the property. You should disclose any past or present problems with the property and any work or improvements made to the property. You are also asked specifically to disclose any knowledge of past or current presence of termites or other wood destroying

organisms on the property, and whether scorpions or other possible "pests" have ever been present on the property. Although many sellers will answer affirmatively to these questions, they were necessitated by lawsuits involving the alleged non-disclosure of these natural inhabitants.

- 3) Utilities:** You are asked whether the property currently receives the listed utilities, and if so, to identify the provider. The water source and any known information about drinking water problems should also be disclosed.
- 4) Environmental Information:** A variety of environmental information is requested. In addition to questions regarding environmental hazards, you are asked to disclose any issues relating to soil settlement/expansion, drainage/grade, or erosion; noise from the surrounding area including airport and traffic noise; and any odors or other nuisances. As a result of recent lawsuits and potential health concerns, you are asked specifically if you are aware of any past or present mold growth on the property. Mold spores are everywhere and when mold spores drop in places where there is water damage or excessive moisture, or where there has been flooding, mold will grow. Thus, you are asked to disclose any conditions conducive to mold growth, such as past or present dampness/moisture, flooding, and water damage or water leaks of any kind.
- 5) Sewer/Wastewater Treatment:** There are many questions dealing with the topic of sewer or wastewater treatment as a result of claims involving alleged misrepresentations that the property was connected to a sewer, when in fact it was not. You are asked if the entire property is connected to a sewer and if so, whether the sewer connection has been professionally verified. If the property is served by an on-site wastewater treatment facility, i.e., a septic or alternative wastewater system, a variety of additional information is required.
- 6) Other Conditions and Factors – Additional Explanations:** These blank lines provide space for you to disclose any other important information concerning the property that might affect the buyer's decision-making process, the value of the property, or its use, and to make any other necessary explanations.

Please note: By law, sellers are not obligated to disclose that the property is or has been: (1) the site of a natural death, suicide, homicide, or any other crime classified as a felony; (2) owned or occupied by a person exposed to HIV, or diagnosed as having AIDS or any other disease not known to be transmitted through common occupancy of real estate; or (3) located in the vicinity of a sex offender. However, the law does not protect a seller who makes an intentional misrepresentation. For example, if you are asked whether there has been a death on the property and you know that there was such a death, you should not answer "no" or "I don't know"; instead you should either answer truthfully or respond that you are not legally required to answer the question.



RESIDENTIAL SELLER'S PROPERTY DISCLOSURE STATEMENT (SPDS) (TO BE COMPLETED BY SELLER)

The printed portion of this FORM has been approved by the Arizona Association of Realtors®. This is NOT intended to be a binding contract.



MESSAGE TO THE SELLER:

Sellers are obligated by law to disclose all known material (important) facts about the Property to the Buyer. The SPDS is designed to assist you in making these disclosures. If you know something important about the Property that is not addressed on the SPDS, add that information to the form. Prospective Buyers may rely on the information you provide.

INSTRUCTIONS: (1) Complete this form yourself. (2) Answer all questions truthfully and as fully as possible. (3) Attach all available supporting documentation. (4) Use explanation lines as necessary. (5) If you do not have the personal knowledge to answer a question, use the explanation lines to explain. By signing below you acknowledge that the failure to disclose known material information about the Property may result in liability.

MESSAGE TO THE BUYER:

Although Sellers are obligated to disclose all known material (important) facts about the Property, there are likely facts about the Property that the Sellers do not know. Therefore, it is important that you take an active role in obtaining information about the Property.

INSTRUCTIONS: (1) Review this form and any attachments carefully. (2) Verify all important information. (3) Ask about any incomplete or inadequate responses. (4) Inquire about any concerns not addressed on the SPDS. (5) Review all other applicable documents, such as CC&R's, association bylaws, rules, and the title report or commitment. (6) Obtain professional inspections of the Property. (7) Investigate the surrounding area.

THE FOLLOWING ARE REPRESENTATIONS OF THE SELLER(S) AND ARE NOT VERIFIED BY THE BROKER(S) OR AGENT(S).

OWNERSHIP AND PROPERTY

- As used herein, "Property" shall mean the real property and all fixtures and improvements thereon and appurtenances incidental thereto, plus fixtures and personal property described in the Contract.
- PROPERTY ADDRESS:** _____ (STREET ADDRESS) _____ (CITY) _____ (STATE) _____ (ZIP)
- Is the Property located in an unincorporated area of the county? Yes No **If yes, and five or fewer parcels of land other than subdivided land are being transferred, the Seller must furnish the Buyer with a written Affidavit of Disclosure in the form required by law.**
- LEGAL OWNER(S) OF PROPERTY:** _____ Date Purchased: _____
- Is the legal owner(s) of the Property a foreign person or a non-resident alien pursuant to the Foreign Investment in Real Property Tax Act (FIRPTA)? Yes No **If yes, consult a tax advisor; mandatory withholding may apply.**
- Is the property located in a community defined by the fair housing laws as housing for older persons? Yes No
- Explain: _____
- Approximate year built: _____. **If Property was built prior to 1978, Seller must furnish the Buyer with a lead-based paint disclosure form.**
- NOTICE TO BUYER: IF THE PROPERTY IS IN A SUBDIVISION, A PUBLIC REPORT, WHICH CONTAINS A VARIETY OF INFORMATION ABOUT THE SUBDIVISION AT THE TIME THE SUBDIVISION WAS APPROVED, MAY BE AVAILABLE BY CONTACTING THE ARIZONA DEPARTMENT OF REAL ESTATE OR THE HOMEBUILDER. THE PUBLIC REPORT INFORMATION MAY BE OUTDATED.**
- The Property is currently: Owner-occupied Leased Estate Foreclosure Vacant If vacant, how long? _____
- If a rental property, how long? _____ Expiration date of current lease: _____ (Attach a copy of the lease if available.)
- If any refundable deposits or prepaid rents are being held, by whom and how much? Explain: _____
- _____

YES NO

- Have you entered into any agreement to transfer your interest in the Property in any way, including rental renewals or options to purchase? Explain: _____
- Are you aware if there are any association(s) governing this Property?
If yes, provide contact(s) information: Name: _____ Phone #: _____
- If yes, are there any fees? How much? \$ _____ How often? _____
- Are you aware of any transfer fees or other fees due upon transfer of the Property? Explain: _____
- _____

YES NO

72. Are you aware of any damage to any structure on the Property by any of the following? (Check all that apply):
 73. Flood Fire Wind Expansive soil(s) Water Hail Other _____
 74. Explain: _____

WOOD INFESTATION

75. Are you aware of any of the following:
 76. Past presence of termites or other wood destroying organisms on the Property?
 77. Current presence of termites or other wood destroying organisms on the Property?
 78. Past or present damage to the Property by termites or other wood destroying organisms?
 79. Explain: _____
 80. _____
 81. _____
 82. Are you aware of past or present treatment of the Property for termites or other wood destroying organisms?
 83. If yes, date last treatment was performed: _____
 84. Name of treatment provider: _____
 85. Is there a treatment warranty? (Attach a copy of warranty if available.)
 86. If yes, is the treatment warranty transferrable?

NOTICE TO BUYER: CONTACT STATE OF ARIZONA STRUCTURAL PEST CONTROL COMMISSION FOR PAST TERMITE REPORTS OR TREATMENT HISTORY.

HEATING & COOLING:

89. Heating: Type(s) _____
 90. Cooling: Type(s) _____
 91. Are you aware of any past or present problems with the heating or cooling system(s)?
 92. Explain: _____
 93. _____

PLUMBING:

94. Are you aware of the type of water pipes, such as galvanized, copper, PVC, CPVC or polybutylene?
 95. If yes, identify: _____
 96. Are you aware of any past or present plumbing problems? Explain: _____
 97. _____
 98. _____
 99. Are you aware of any water pressure problems? Explain: _____
 100. Type of water heater(s): Gas Electric Solar Approx. age(s): _____
 101. Are you aware of any past or present water heater problems? Explain: _____
 102. _____
 103. Is there a landscape watering system? If yes, type: automatic timer manual both
 104. If yes, are you aware of any past or present problems with the landscape watering system?
 105. Explain: _____
 106. Are there any water treatment systems? (Check all that apply):
 107. water filtration reverse osmosis water softener Other _____
 108. Is water treatment system(s) owned leased (Attach a copy of lease if available.)
 109. Are you aware of any past or present problems with the water treatment system(s)?
 110. Explain: _____

SWIMMING POOL/SPA/HOT TUB/SAUNA/WATER FEATURE:

111. Does the Property contain any of the following? (Check all that apply):
 112. Swimming pool Spa Hot tub Sauna Water feature
 113. If yes, are either of the following heated? Swimming pool Spa If yes, type of heat: _____
 114. Are you aware of any past or present problems relating to the swimming pool, spa, hot tub, sauna or water feature?
 115. Explain: _____
 116. _____

- YES** **NO**
164. Are you aware of any past or present drinking water problems? Explain: _____
 165. _____
166. Are there any alternate power systems serving the Property? If yes, indicate type (Check all that apply):
 167. Solar Wind Generator Other _____
 168. If yes, are you aware of any past or present problems with the alternate power system(s)? Explain: _____
 169. _____

ENVIRONMENTAL INFORMATION

- YES** **NO**
170. Are you aware of any past or present issues or problems with any of the following on the Property? (Check all that apply):
 171. Soil settlement/expansion Drainage/grade Erosion Fissures Dampness/moisture Other
 172. Explain: _____
173. Are you aware of any past or present issues or problems in close proximity to the Property related to any of
 174. the following? (Check all that apply):
 175. Soil settlement/expansion Drainage/grade Erosion Fissures Other _____
 176. Explain: _____
177. **NOTICE TO BUYER: THE ARIZONA DEPARTMENT OF REAL ESTATE PROVIDES EARTH FISSURE MAPS TO**
 178. **ANY MEMBER OF THE PUBLIC IN PRINTED OR ELECTRONIC FORMAT UPON REQUEST AND ON ITS WEBSITE**
 179. **AT www.azre.gov.**
180. Are you aware if the Property is subject to any present or proposed effects of any of the following? (Check all that apply):
 181. Airport noise Traffic noise Rail line noise Neighborhood noise Landfill Toxic waste disposal
 182. Odors Nuisances Sand/gravel operations Other _____
 183. Explain: _____
184. Are you aware if the Property is located in the vicinity of an airport (military, public, or private)?
 185. Explain: _____
186. **NOTICE TO SELLER AND BUYER: PURSUANT TO ARIZONA LAW A SELLER SHALL PROVIDE A WRITTEN**
 187. **DISCLOSURE TO THE BUYER IF THE PROPERTY IS LOCATED IN TERRITORY IN THE VICINITY OF A MILITARY**
 188. **AIRPORT OR ANCILLARY MILITARY FACILITY AS DELINEATED ON A MAP PREPARED BY THE STATE LAND**
 189. **DEPARTMENT. THE DEPARTMENT OF REAL ESTATE ALSO IS OBLIGATED TO RECORD A DOCUMENT AT THE**
 190. **COUNTY RECORDER'S OFFICE DISCLOSING IF THE PROPERTY IS UNDER RESTRICTED AIR SPACE AND TO**
 191. **MAINTAIN THE STATE LAND DEPARTMENT MILITARY AIRPORT MAP ON ITS WEBSITE AT www.azre.gov.**
192. Are you aware of the presence of any of the following on the Property, past or present? (Check all that apply):
 193. Asbestos Radon gas Lead-based paint Pesticides Underground storage tanks Fuel/chemical storage
 194. Explain: _____
195. Are you aware if the Property is located within any of the following? (Check all that apply):
 196. Superfund/ WQARF/ CERCLA Wetlands area
197. Are you aware of any open mine shafts/tunnels or abandoned wells on the Property?
 198. If yes, describe location: _____
199. Are you aware if any portion of the Property is in a flood plain/way? Explain: _____
 200. _____
201. Are you aware of any portion of the Property ever having been flooded? Explain: _____
 202. _____
203. Are you aware of any water damage or water leaks of any kind on the Property? Explain: _____
 204. _____
205. Are you aware of any past or present mold growth on the Property? If yes, explain: _____
 206. _____

SEWER/WASTEWATER TREATMENT

- YES NO**
207. Is the entire Property connected to a sewer? Explain: _____
208. If yes, has a professional verified the sewer connection? If yes, how and when: _____
209. **NOTICE TO BUYER: CONTACT A PROFESSIONAL TO CONDUCT A SEWER VERIFICATION TEST.**
210. Type of sewer: Public Private Planned and approved sewer system, but not connected
211. Name of Provider _____
212. Are you aware of any past or present problems with the sewer? Explain: _____
213. Is the Property served by an On-Site Wastewater Treatment Facility? **(If no, skip to line 226.)**
214. If yes, the Facility is: Conventional septic system Alternative system; type: _____

- YES NO**
215. If the Facility is an alternative system, is it currently being serviced under a maintenance contract?
216. If yes, name of contractor: _____ Phone #: _____
217. Approximate year Facility installed: _____ (Attach copy of permit if available.)
218. Are you aware of any repairs or alterations made to this Facility since original installation?
219. Explain: _____
220. _____
221. Approximate date of last Facility inspection and/or pumping of septic tank: _____
222. Are you aware of any past or present problems with the Facility? Explain: _____
223. _____
224. **NOTICE TO SELLER AND BUYER: THE ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY REQUIRES A PRE-TRANSFER INSPECTION OF ON-SITE WASTEWATER TREATMENT FACILITIES ON RE-SALE PROPERTIES.**
225. _____

OTHER CONDITIONS AND FACTORS

226. What other material (important) information are you aware of concerning the Property that might affect the buyer's decision-making
227. process, the value of the Property, or its use? Explain: _____
228. _____
229. _____

ADDITIONAL EXPLANATIONS

230. _____
231. _____
232. _____

233. **SELLER CERTIFICATION:** Seller certifies that the information contained herein is true and complete to the best of Seller's

234. knowledge as of the date signed. Seller agrees that any changes in the information contained herein will be disclosed in writing by

235. Seller to Buyer prior to Close of Escrow, including any information that may be revealed by subsequent inspections.

236. **SAMPLE** _____ **SAMPLE** _____

SELLER MO/DA/YR SELLER MO/DA/YR

237. **Reviewed and updated: Initials:** SAMPLE / SAMPLE
SELLER SELLER MO/DA/YR

238. **BUYER'S ACKNOWLEDGMENT:** Buyer acknowledges that the information contained herein is based only on the Seller's actual

239. knowledge and is not a warranty of any kind. Buyer acknowledges Buyer's obligation to investigate any material (important) facts in

240. regard to the Property. Buyer is encouraged to obtain Property inspections by professional independent third parties and to

241. consider obtaining a home warranty protection plan.

242. **NOTICE:** Buyer acknowledges that by law, Sellers, Lessors and Brokers are not obligated to disclose that the Property is or has been: (1) the site of a

243. natural death, suicide, homicide, or any other crime classified as a felony; (2) owned or occupied by a person exposed to HIV, diagnosed as having

244. AIDS or any other disease not known to be transmitted through common occupancy of real estate; or (3) located in the vicinity of a sex offender.

245. **By signing below, Buyer acknowledges receipt only of this SPDS. If Buyer disapproves of any items provided herein, Buyer**

246. **shall deliver to Seller written notice of the items disapproved as provided in the Contract.**

247. **SAMPLE** _____ **SAMPLE** _____

BUYER MO/DA/YR BUYER MO/DA/YR