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WHAT CAN AAR DO TO HELP YOU?

As we look to the year ahead, AAR is committed to providing our members with the tools, information and resources you need to weather this market. Whether you're new to the real estate industry or a seasoned professional, we've developed the *Road to Professionalism* website to hone your skills in five key competencies. The *Legal Hotline* continues to provide free legal advice to all members through the Designated Brokers. Brokers who implement AAR's *Transaction Management* program will experience tremendous time and cost savings for their companies and for agents at an incredible special rate negotiated for Arizona brokers. Numerous *classes, webinars and podcasts* are being offered on hot topics such as green building,

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ARIZONA REALTOR®

ONLINE

ARIZONA 2009 — ANOTHER CHALLENGING YEAR ECONOMISTS, REALTORS® REMAIN HOPEFUL

By Diane Cole, AAR Director of Publications and Online Media

Arizona economic forecasters have taken their last shot at predictions for key economic indicators for 2008. According to the Blue Chip Economic Forecast, "we will be launching into what portends to be yet another weak year. The current outlook is that the first half of 2009 will bring more bad news at the national level, including negative growth in Gross Domestic Product along with higher unemployment rates. Two drivers of the national economy in 2008, exports and non-residential building, are expected to weaken, leaving only the government sector as a possible source of expanded demand."

"The capsule conclusion is that 2009 is not positioned to bring a real turnaround. The recession may register a trough after mid-year, with some modest gains after that. But the overall pattern of growth for Arizona will be 'bumping along the bottom,' not a significant rebound."

"This is without a doubt the bleakest forecast that Arizona has faced, at least in the 39 years I have been a practicing economist," said Elliott D. Pollack, president of Elliott D. Pollack and Company in Scottsdale, an

economic and real estate consulting firm. "The only good news is that the long-term outlook remains bright. We are simply in an over-supply situation in terms of real estate which will take some time to work through. The underlying dynamics at this point appear to remain in place. The problem will be getting from the current pain to the future promise."

Lawrence Yun, NAR chief economist, said a review of the past year is instructive. "Despite the turmoil in the economy, the overall level of pending home sales has been remarkably stable over the past year, holding in a generally narrow range," he said. "We did see a spike in August when mortgage conditions temporarily improved, which underscores two things — there is a pent-up demand, and access to safe, affordable mortgages will bring more buyers into the market."

As the U.S. economic crisis worsens, NAR has been urging legislators to include principles of the association's four-point plan in any future housing stimulus legislation. NAR developed the plan with consumers in

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WHAT CAN AAR DO TO HELP YOU? CONTINUED

social media, short sales and foreclosures, technology, and many other subjects.

NAR also has a variety of programs to help you build your business. The *Surround Sound* program is giving media training to local association leadership to better prepare them to get the right message out to the public. The *REALTOR® Toolkits* provide resources addressing numerous key issues facing real estate professionals. The *Public Awareness Campaign* keeps positive messages about real estate in newspapers and magazines and on radio and TV throughout the country. And *REALTOR.com* is the number one website for buyers searching for homes online.

What tools, classes, or information can we give you? Send us your feedback: AZR@AARonline.com – we want to hear from you! 📧

BROCHURE OF THE MONTH

HOPES, DREAMS AND FAIR HOUSING

Empower your buyers and/or sellers! The Hopes, Dreams and Fair Housing brochure clearly answers the most frequent questions about Fair Housing laws that come from buyers and sellers. Find this and other [AAR brochures on AARonline](#). 📧



ARIZONA 2009 CONTINUED

mind, to boost the economy and stabilize real estate markets. The plan recommends:

- Extending the \$7,500 tax credit to all home buyers and eliminating the repayment requirement
- Making the 2008 FHA and conventional loan limits permanent
- Putting the Troubled Asset Relief Program back on track
- Permanently barring large banks and banking conglomerates from engaging in real estate brokerage and management.

To learn more about NAR's [four-point plan](#).

Arizona REALTORS® Share Their Insights for 2009

In a recent interview with *Inside Tucson Business*, 2009 NAR President-elect Vicki Cox Golder, CRB, of Tucson, said NAR believes “that the key to turning the housing market around is getting these homes in foreclosure or short sales off the market to stabilize this economy... the good news is Arizona is starting to see some gains. However, a lot of those gains (in the third quarter) were foreclosures and short sales getting off the market... this recovery is going to go on for another three quarters, so till almost the end of 2009.”

AAR regional vice presidents see challenges and opportunities in 2009:

- “The Kingman market, as well as other areas in Mohave County, has seen its share of bumps in the road for the last 20 to 30 months. Production numbers were down but 2008 was basically on par with 2007. The foreclosures hit the market with full force the second half of 2008 and it put downward pressure on prices, but that should lead to more sales in the new year as the prices become more affordable for the locals. Factors such as job creation will have the final say for 2009 in terms of future outlook as the region has been devastated by the loss of construction jobs. Mohave County will continue to offer bargain prices for first time homebuyers, those looking to move up, and retirees as compared to other parts of the state.”

— **Region 1 RVP Todd Tarson, GRI**

- “I see the far Northwest Valley which includes Wickenburg and Southern Yavapai County to have a relatively slow start to 2009. But by spring I see the market taking a turn up. With new industry that is in the works and new employment, I see a new arena with entry level homes, our secondary home market will still be slow, but as the current economic situation starts to stabilize by the fall of 2009, I believe the market will turn up also. The Phoenix metro area should have a faster recovery time, again employment remains good and the demand for housing will stay strong. The economic stimulus package now being proposed by the federal government should slow the foreclosure rate and bring down the inventory which will make a stronger market.”

— **2009 AAR Region 2 RVP Phil Richardson**

- “Region 3, which basically covers the more mountainous areas of Arizona, has been “relatively” immune to the rest of the State’s housing struggles until late 2008. However, as the year progressed, sales grew sluggish and we are starting to see a downward pressure on home pricing. Most areas of Region 3 are strong second home markets which generally add to demand, and we expect to remain sluggish a few months behind other areas, but by late 2009 we will see an upward trend in activity. This is of course, barring any unforeseen national economic disaster. As prices fall in the “cool” areas of the state and temperatures round 100 in the hot areas, activity will increase as usual. But this time we should see a rebuilding of markets, a long overdue return to new construction and the start of getting back to business as usual.”

— **2009 AAR Region 3 RVP Gary Nelson, ABR, CRS, GRI**

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ARIZONA 2009 CONTINUED

- “Region 4 encompasses very diverse territory. Foreclosures and shorts sales are a large part of our market in the outlying areas such as Queen Creek, Maricopa and Casa Grande and are expected to remain a force through most of 2009. Closer to the business and tourist centers the market for single family homes is beginning to rebound. The light rail corridor through Tempe & Mesa should begin to generate sales/rentals in the surrounding areas as the use of public transportation increases. The stimulus package with higher conforming loan limits and lower interest rates will stimulate sales to seasonal visitors and investors in our second home and resort communities. Existing homeowners will be able to refinance and either stay in their homes (reducing

inventory) or move. Scottsdale areas will benefit more from higher conforming loan limits combined with the lower interest rates.”

— 2009 AAR Region 4 RVP *Janine Brown, ABR, GRI*

- “Region 5 is experiencing similar housing problems as the rest of the state. Tucson being a more job oriented metropolitan area will experience a more difficult time during 2009. The other areas in the Region have the same problems, but at a lesser degree. I believe these areas will proceed through 2009 at a low steady pace. There are people who want to buy homes. We as professionals need to show them how to do so safely.”

— 2009 AAR Region 5 RVP *Jack Woerner, GRI*

“There is no doubt that Arizona faces a number of challenges in the year ahead,” said 2009 AAR President Mike Wasmann, ABR, CIPS, CRS, GRI. “Without question though, challenge also brings opportunity. We have among the highest number of subprime loans in the nation, but those challenges also bring the opportunity to become experts in the short sale and bank-owned properties arena. Armed with the right education, we still have a number of people ready to take advantage of what they had thought was a lost opportunity to live the Arizona lifestyle. And potential buyers from all over the world await our ability to show them the way. No question, there are a lot of lemons in hand. Let’s get busy making lemonade while the opportunity lasts.” 🏠

2009 LEGISLATIVE FORECAST *By Tom Farley, AAR CEO*

Families are dealing with some new and different struggles this year. An Arizona Republic headline in November detailed the latest curve in the Bush Administration’s bailout plan and the total cost thus far — \$7 trillion dollars. As we focus on the home front, Arizona is dealing with its own problems as the mortgage meltdown has exacerbated the state’s overspending problem, which this current fiscal year sits at \$1.2 billion and is on track to reach \$2.2 – \$3 billion for the next fiscal year.

New Leadership

If all of the above was not enough to confound the state’s elected leaders at the Arizona Capitol, a new variable has entered the equation – new leadership at the executive and legislative levels. The state house and senate has elected new leadership with veteran Senator Bob Burns taking the top post in the Arizona State Senate and Kirk Adams taking over the role of Speaker of the Arizona House of Representatives. Even their respective staffs have changed or at least shuffled across the Capitol Mall. With U.S. President-elect Obama assembling his cabinet, Governor Janet

Napolitano will leave Arizona to become the nation’s next Department of Homeland Security Secretary. That makes Arizona Secretary of State Jan Brewer the next governor of our state. Our new leaders are going to have to deal with an old and growing state budget deficit of \$1.2 billion immediately and may have done so by the time this article is published. I have faith in the new leadership and staff that they can tackle this problem and get Arizona on sound fiscal ground once again.

Concentration on the Budget

Whether the legislature is in Special or Regular Session, I expect President Burns’ words to ring true as he said they aren’t working on any regular legislation until job one is completed: passing a state budget. That is good news to hear and means that members of the legislature will be forced to pay attention to their constitutional duty. It also means that some of the Arizona Association of REALTORS® (AAR) legislative “to-do” list may be pushed back because of the state’s fiscal woes. It is the proactive agenda that I wish to focus on first and then the defensive agenda.

AAR on the Offense

Association health plans for our members have been on the national discussion list for the last several years with no success to date. Partisan bickering kills this plan to the point that the only healthcare option we’re hearing is a form of universal health care. AAR plans on introducing legislation on this subject or applying under existing law to the Arizona Department of Insurance for the ability to offer an association health plan to our members. The plan here, though more difficult to implement, is to offer lower cost health insurance to our membership.

Selling five or more bank owned properties (properties owned by the same bank) in a subdivision requires a public report or a disclosure report as it is now called by the Arizona Department of Real Estate (ADRE). This bureaucratic hurdle does very little to better inform consumers about the property they are considering as the subdivision is already built and its amenities and infrastructure are visible to the naked eye. The regulatory stumbling

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2009 LEGISLATIVE FORECAST CONTINUED

block this creates for banks and REALTORS® causes potential delays and fines to be imposed, which is not exactly what the market needs right now. AAR will seek an exception for bank owned properties from the public report/disclosure report requirement as long as the property being sold is in a completed subdivision.

The City of Tucson just does not seem to understand that real estate transfer taxes are not supported by the voters and Proposition 100 makes them illegal. Even after the proposition passed by wide margins in every county of our state, some Tucson city council members appear to be blind to the proposition's plain language and deaf to their voters. A bill or bills will be proposed next session by AAR to make it abundantly clear that they are prohibited from double taxing homeowners. The City of Tucson is amazingly still talking about passing a real estate transfer tax at the city level. They call their latest proposal a "voluntary" tax and that it is not subject to the provisions of Proposition 100 because they are using a development agreement to institute the tax instead of a normal direct ordinance. Proposition 100's language states that the state, city, town, county or taxing district of the state may not charge a fee or tax, direct or indirect, on the sale or transfer of real property. The direct or indirect language was placed in the constitutional amendment just for backdoor attempts like the City of Tucson has been contemplating.

On the Defense

Foreclosure fallout is sure to gore a few oxen along the way as properties sit vacant, property values fall and people look for someone to blame. It would be no surprise to see one or more proposals introduced at the legislature this year to lay the blame for this national problem at the real estate industry's feet or to require that REALTORS® maintain the bank owned property that they have listed. AAR will continue to

monitor and engage where necessary on the issues impacting homeownership and our members.

Water and green building seem to be topics of discussion that everyone likes to engage in. Arizona has been passing water legislation for several years now. We probably have some of the toughest water laws in the country. That won't stop some legislators from drafting the next round of water restrictions on small property owners. If only the legislature could pass legislation that would mandate rain or snow to fall where and when it needs to occur. Small domestic wells are the likely next target as bureaucracy and large water providers seek more control and limit their water competition.

With the state budget in the bad shape it's in, several organizations are talking about raising taxes. Two Arizona State University professors have blamed the state's fiscal mess on tax cuts that Arizona has passed in recent years. Conveniently, they forgot to include the massive spending increases on state programs as part of the problem. The Joint Legislative Budget Committee office has a few interesting charts online that point out just how sharp the spending increase curve has been over the last few years. The professors should have reviewed those graphs before opining an increase in taxes. Every time the state ends up in a fiscal mess, we hear the call to raise taxes or broaden the base to include services. AAR will continue to stay on top of these matters and protect our membership and their clients from being double taxed through a tax on services.

The next couple of years at the Arizona State Capitol are likely to be the types that test the abilities of our elected leadership and the political prowess of different groups as public policy is discussed. We encourage our members to stay on top of the different public policy discussions by reading this magazine, or log on to [RALLiNOW](#). We had a great victory on Proposition 100, but this is no time to rest on our laurels. 📌

If you would like to share your thoughts or suggestions about upcoming legislative issues, send an email to governmentaffairs@aaronline.com.

FINANCING

TREASURY ALERTS REALTORS® TO FRAUD SCHEME

If a buyer tries to use a "personal promissory note" or "private offset bond" to buy a home, the matter might be an attempt at fraud and you should let the U.S. Treasury Department know, a notice from the Treasury's Office of Inspector General says. Here's the notice in full, with contact information:

SUBJECT: FRAUD ALERT

The U.S. Department of Treasury, Office of Inspector General (OIG), is investigating incidences whereby individuals are using fraudulent promissory notes and bonds to attempt to purchase vehicles and real estate. The OIG has been notified of numerous occurrences throughout the United States where fraudulent documents were used to attempt to purchase vehicles. Treasury OIG has also been made aware of incidents in Arizona and Colorado where similar fraudulent documents were used to attempt to purchase homes and an office building.

The fraudulent documents are not referenced as "U.S. Treasury" bonds or promissory notes. They are referenced as "personal promissory note" and "private offset bond;" however, they have the name of Henry Paulson, Secretary, U.S. Treasury, on the face of the documents.

Treasury OIG has learned that the only type of hard-copy bond issued by the U.S. Treasury that a citizen can purchase today is a savings bond. All other bonds are electronic and the buyer would not receive a hard-copy document. Finally, Paulson's name should not appear on any document listed as a private bond or promissory note since these items are not backed or guaranteed by the U.S. Treasury.

If you have any information regarding this type of fraudulent activity, we request that you contact the U.S. Department of Treasury, Office of Inspector General (OIG), Office of Investigations Hotline, at 800-359-3898 or e-mail Hotline@oig.treas.gov. REALTORS® approached by a person giving these or similar circumstances should consider the potential for fraud. Should you suspect fraudulent activity, it is recommended that you contact the OIG Hotline and your local law enforcement agency immediately. Additional information regarding this and other similar fraud schemes can be found at the [Department of Treasury website](#). 📌

ONLY IN THE AZRONLINE

STAYING BUSY IN A TOUGH MARKET *By Jon Kichen*

Real estate agents often take the path of least resistance when it comes to generating new business. While many agents flourish in a good market, some of those agents often flounder when the market turns tough. Why? In a good market, business comes to them, albeit often with some reasonable marketing efforts. But trying to use the same marketing efforts in a down market could spell doom. Here are some key tips to ride out the storm and stay busy in all markets:

- Have several sources of business at all times. Building a base of business on one source might work well for a while, but if that source becomes exhausted or stops producing, you are out of business. Focus your marketing efforts on at least three sources of business, with sales and listings coming from all three. Then, if one or even two sources slow down, you still have another producing income. These sources might include: 1. prospecting your past clients, friends and relatives; 2. working a large geographic

farm; and 3. prospecting first time homebuyers, For Sale By Owners or expired listings. Doing all three well might help you ride out a bumpy market.

- Stay on top of trends. Look for opportunities that might be around the corner, and be prepared to move quickly. For example, in a market with falling interest rates, more and more first time homebuyers would be ready to buy. Seeing that coming and preparing for it puts you ahead of the competition. A slowing market and declining values often brings a higher level of foreclosures. Develop relationships with several lenders so that when they are ready to list those properties, you might be near the top of their list.
- Never stop prospecting. No matter how the market shifts, it will come back around. Yes, you might need to continue spending money to do that, but any business requires ongoing

investment. While some buyers and sellers will make instant on-the-spot decisions as to which real estate agent to use, most will make a decision to use a REALTOR® and will consider who they have seen or heard from the most.

Consistency and repetition builds your business.

It is not impossible to stay busy in a down market; it simply requires focus and perseverance. With several sources of business, it would be odd that all sources would slow down at the same time.

Your mental attitude will have a lot to do with your success. If you believe the market is bad and there is no business, you are correct! If you believe that there is business to be had, again, you are correct!

Jon Kichen is vice president, associate broker for West USA Realty in Scottsdale. Jon is also owner of Desert Sage Seminars, an online source for real estate license renewal classes at www.desertsageseminars.com. 📍

MASTER THE ART OF THE SOUND BITE *By Mariwyn Evans*

Raise your profile by becoming a media maven. With these tips from the experts, you'll be the one reporters call for the scoop on real estate.

How to Prepare for the Interview

Bill Zucker, managing director of media practice for Burson-Marsteller in Chicago, says "One of the most important parts of any interview is preparation." Before you agree to an interview, ask the reporter what the focus will be. That way you can anticipate what you'll be asked and research statistics that support your answers.

Preparation also involves deciding on a few concise key messages, or themes, you want to convey during the interview. To come up with key messages about yourself or your company, begin by deciding on the two or three most important ideas that describe your business and what makes

it distinctive, writes Sally Stewart in *Media Training 101* (Wiley, 2004). "Keep your list of key message points short because the fewer points you have to make... the more likely the story will reflect what you want to communicate," she says. The former *USA Today* reporter suggests no more than five and preferably fewer key messages. Sounding "sincere and a bit spontaneous will enhance your credibility," says Stewart, who now heads SA Stewart Communications.

Anecdotes Liven Up Your Message

"You're there to bring examples as well as facts; sometimes, you are the example," says Zucker. Don't make the mistake of waiting until the end of the interview to get your points across. You may run out of time. Instead, make your most important points early; then repeat them if you

have the opportunity. In addition, look for ways to transition from a reporter's question to one of your key messages, suggests Stewart.

Don't Repeat the Reporter's Question

Another training tip: Don't get pulled in by negatives or repeat negative questions or statements made by the reporter, says Zucker. "You have to focus on your message instead of going down the reporter's path," he says.

Takeaway Tips for Working with the Media

If you're a reliable media source and you give a good interview, reporters will come back to you

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MASTER THE ART OF THE SOUNDBITE CONTINUED

again and again for the scoop on real estate. The exposure helps to raise your profile in your community and build a reputation as a knowledgeable practitioner. Here are some tips to help you become a media favorite:

- **Don't wait for reporters to come to you.** If you have a story you think is newsworthy, take the initiative and call or e-mail the reporter.
- **Pitch to the right person.** Review your local newspapers, business journals, and broadcast outlets to get the names of reporters who specifically cover real estate.
- **Know what's news.** Tie your suggested story ideas to facts, not just opinions. It's much more effective to say that home prices

have risen 2 percent in your area than to say, "The market is good."

- **Tell a good story.** Offer a compelling anecdote or quotable personal insight that will help the public connect to your story and hold their interest.
- **Keep in contact.** Send regular press releases or e-mail messages suggesting story ideas and sharing interesting statistics. Follow up a few days after your initial contact.
- **Be sensitive to deadlines.** If you do get a call from a reporter, respond immediately or risk being passed over.
- **Keep your answers simple.** Too many complicated ideas make it more difficult for

a reporter to pick out the key points.

- **Don't argue.** It's OK to disagree, followed by a positive point supported by substantiated facts.
- **Don't be afraid to say, "I don't know."** But be prepared to find out or suggest other sources.
- **Never say, "No comment."** It looks like you have something to hide.

Excerpted from REALTOR® magazine, August 2008. Copyright 2008. Mariwyn Evans is a senior editor. Read her complete article on realtor.org.

INFOMANIAC

A TECH PLAN FOR 2009 *By Chandler Peterson*

Well, 2009 is upon us. The shopping fervor of Christmas is past and for many of us our electrical sockets are filled with the chargers of all the new gizmos, gadgets and devices that we've bought to try and help us in the new year. Each year I sit down and make to-do lists and plans — personal, business, health, etc. — for what I want to see happen for myself that year.

Part of my business plan is my Tech Plan. I would encourage you to create a tech plan for your business this year. Creating the plan is an important tool in helping you grow your business. A Tech Plan helps me outline and visualize how I'd like to further integrate technology into my business over the course of the coming year. It enables me to create a roadmap of my acquisitions. Instead of buying impulsively, it helps to paint the bigger picture of what I would like to do differently or better in my business.

When creating a tech plan for your business:

- Map out how you want to use the technologies you're aware of to save time, make money or make your life a bit easier.

- Write down technology purchases and subscriptions you're thinking about making over the next year.
- Look at the end goal of your plan as a completed puzzle, then determine what pieces to this puzzle are missing.
- **PRIORITIZE** the importance of each piece. (By the way, this is where most people trip up in putting together a new year's tech plan. Many will make the mistake of thinking that the most expensive purchase is the most necessary and therefore should get all the budgeting and planning attention.)
- Establish what the return is on each of these pieces of technology: does it free up more time, close one more deal, make clients happier, etc... (Focus on the returns of each piece of technology before focusing on the cost of each piece.)

Going through all of these steps will provide you a clear picture of which technology pieces are missing from your business: which ones you should purchase first, what you're expecting in

return, and understanding how each piece will complement and work with the purchase before it and after it.

If you would like to share or talk about your Tech Plan for 2009, drop me a line at chandler@realitytechnologyreview.com.

Chandler Peterson is an Arizona REALTOR® and managing editor of Realty Technology Review. If you would like to share your success or frustrations with technology, or if you have any questions about this column, contact Chandler at chandler@realitytechnologyreview.com.

SOCIAL MEDIA FOR REAL ESTATE PROFESSIONALS

Over the next few months we'll be interviewing Arizona REALTORS® to learn how they use social media sites in their businesses.

By Diane Cole, AAR Director of Publications and Online Media

What Are You Doing? Keep In Touch through Twitter and Build Your Network

This month we're looking at Twitter, a social messaging site that allows you to send short messages via cell phone, IM or the Twitter web page to friends, family, co-workers, business associates — anyone who chooses to "follow" you. (See the article on Twitter, "Micro-Blogging: Going Social — Part 2," in the [December AZRonline](#).)

Our REALTOR® contributors this month are [Dru Bloomfield](#), ABR, CRS, GRI, an agent with John Hall & Associates, and [Jay Thompson](#), designated broker for Thompson's Realty.

What business success have you had from being on Twitter?

■ **Jay:** Many REALTORS® will define "business success" as a closed transaction or a new client. If that's the measure, my "success" directly from Twitter is zero. However, I would argue that there is MUCH more to consider.

I currently "follow" 826 people on Twitter, and 1,406 follow me. This is an expansion of my "sphere of influence" that would have taken years to develop via traditional methods. Many of the people I've "met" via Twitter are other agents across the country (which in theory could lead to referral business), but many more are not. My "Twitter sphere" includes marketing people (from whom I get great ideas), technology people (from whom I get help), and many that I have no idea what they do (from whom I get friendship and support). Through Twitter, I've been able to meet many local non-real estate people "IRL" (In Real Life) that I now count as personal friends.

Twitter also drives traffic to my blog and increases my search engine presence. Learning, sharing, and meeting new people is certainly a measure of "business success" in my book!

■ **Dru:** So far, I have two clients from Twitter. One is a referral from a real estate agent in Colorado who heard about me from my Twitter community, and the other is a buyer who started our conversation in Twitter by asking me some specific questions about the Scottsdale real estate market. We quickly took the conversation off-line.

When I started blogging, I gave myself about a year to start seeing results. Fortunately, the business came much more quickly. I discovered Twitter early this year. The more I use it, the more I see the power it has in connecting people. And, real estate is a people business, a relationship business. Twitter and other social media networks provide an easy platform for these introductions to occur and relationships to develop.

How much time do you spend daily on Twitter?

■ **Jay:** This is difficult to quantify. I have a Twitter application (TweetDeck) that stays running on my computer monitor all the time. I pop in and out throughout the day. "Tweets" (messages sent via Twitter) are limited to 140 characters, so you can't spend a whole lot of time reading or writing any given message.

It's virtually impossible (nor is it necessary) to keep up constantly with Twitter. I suspect if I added up all the time I spend reading and responding to Twitter, it would be less than 30 minutes a day. But it's really something that can be done in parallel with other activities, and at least for me is not something I can set an established time for — i.e., saying "I'm going to Twitter from 9:00 – 9:30" doesn't work.

■ **Dru:** The time I spend on Twitter varies from day to day. I view it as a community-building activity, so I try to participate, share, and learn daily. Some days it may be less than five minutes, and other times it could be an hour or so interspersed with other computer time. It's not a full-time, stare-at-your-screen activity. I use twirl and email



“ I TRULY DON'T VIEW TWITTER AS A PROSPECTING TOOL AS MUCH AS A WAY TO CONNECT WITH PEOPLE WHO SHARE COMMON INTERESTS.”

notifications, so I get more immediate notification if someone is trying to reach me.

I truly don't view Twitter as a prospecting tool as much as a way to connect with people who share common interests. I have over 1000 people following me in my community, and I follow at least that many myself. Many are in Scottsdale and Phoenix, while the others are from around the world. Some are REALTORS®; most are not. I've connected with people who have children with autism, who are technology nuts, who like to work out, who are avid readers, and many more. I've connected with people who have a myriad of common interests, some of who may happen to buy or sell real estate in the United States, Canada, or somewhere else in the world.

What other social media sites are you active on?

■ **Jay:** I use LinkedIn and to a lesser extent Facebook and Flickr. LinkedIn is great for re-connecting with people I knew in my pre-real estate corporate life. Facebook is good for connecting with old friends, even for an old guy like me. Meetup.com is relatively new (to me) and is a wonderful way to find local people with similar interests.

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YOUR BUSINESS



SOCIAL MEDIA FOR REAL ESTATE PROFESSIONALS CONTINUED

■ **Dru:** Twitter is my primary social media site, followed by Facebook, Flickr, and LinkedIn. Flickr is a photo-based social media site that has been a surprising source of community. FriendFeed is another site that I participate in, but to a lesser degree. With Trulia and Active Rain, I monitor conversations, but do not participate unless it's truly in my geographical area or I'm inspired by the conversation going on.

Why would you recommend Twitter to other real estate agents?

■ **Jay:** Twitter is a great tool for exploring and learning about social media. But it is not for everyone. You need to engage in some capacity; it is not a place to build a profile and never return. The "crowd" is friendly and willing to share. In my opinion, the real estate agent of today that is not engaged in social media is

missing out on a great deal, both from a pure business perspective as well as a learning and sharing perspective.

■ **Dru:** I absolutely recommend Twitter to other real estate agents if they are comfortable with trying something new and willing to go into it with a sense of sharing and communicating. Trying to sell on Twitter is not going to work. I do post links to my real estate-related blog posts, and my profile indicates that I am a REALTOR®. I "tweet" about Scottsdale, real estate, and the market. For me, the idea is to pepper your tweets with real estate information.

I view Twitter etiquette as similar to that at a cocktail party where you don't know many people. Especially in the beginning, listen, watch, introduce yourself. And then begin to share and converse. It's a great community of people.

What one key piece of advice would you give Twitter users?

■ **Jay:** Do not be "salesy." The "hard sell" does not work in social media. Contribute, grow your "social media sphere" and people will learn what you do and how you do it. Ramming the fact that you are an agent down people's throats will not be effective in the social media space. Here is a perfect example: www.realcentralva.com/2008/10/15/realtors-be-careful-whom-you-follow-on-twitter/

■ **Dru:** Be yourself. Be genuine. Twitter will help you find a more real online presence, even if you're already a blogger. You will become more comfortable sharing, listening, and participating. And that is what social media is all about. 📌

ADRE UPDATE Submit Proof of Legal Presence Online

Licensees may now submit the newly required proof of legal presence to ADRE online for quicker acknowledgement of acceptance. Upload the document directly to ADRE using their secure website following these steps:

- Scan your documentation
- Log into your secure [licensee account at www.az.gov/real-estate](http://www.az.gov/real-estate)
- Click on Manage My Legal Presence Requirements and then Submit Documentation.
- Pick the document type, click "Browse..." to select your document and click Submit

Within two business days, your document should be reviewed and you can verify acceptance in your licensee account. If it was rejected, an email is sent automatically notifying you.

"You only need to complete this process once," said ADRE Commissioner Sam Wercinski. "We appreciate your support as we all work to meet this new statutory requirement for licensees in Arizona."

Designated Brokers!

You can now review the status of your licensees' compliance through your account on ADRE's secure website. Commissioner Wercinski says your help is essential! "We are receiving thousands of submittals each month and processing time can vary based on how the document is submitted to us. By uploading the documents via the online system, we can prioritize reviewing documents by licensee expiration dates. I want to avoid any form of backlog or renewal delay because ADRE staff lacked adequate time to review a licensee's document. Please encourage your licensees to upload their document now regardless of when their license expires. We appreciate and value your feedback and input." 📌



Former AAR CEO Ty Strout, Brenda Craft

ASSOCIATION NEWS

BRENDA CRAFT RETIRES AFTER 27 YEARS OF SERVICE

AAR Executive Assistant Brenda Craft retired at the end of October after 27 years with AAR. Brenda was recognized at the October Leadership Conference for her outstanding contribution to the association. Throughout Brenda's career at AAR she exhibited an extraordinary level of dedication and personal commitment to meeting the needs of association leaders and members. She will be missed. 📌

BENEFITS OF BEING A REALTOR®

A POWERFUL POLITICAL FORCE IN ARIZONA... THE “MYSTERY” OF FUNDING

By Tom Farley, AAR CEO

There are three critical components for effective political influence... focused advocacy (support of specific legislative issues), grassroots involvement (individuals working at the local level on political issues), and funding. The Arizona Association of REALTORS® (AAR) has approached the “funding” component by establishing the REALTORS® of Arizona Political Action Committee (RAPAC) and the REALTORS® Issues Mobilization Committee (RIMC). It is important that every REALTOR® understands the purpose of and unique difference between these two important funding activities: RAPAC funds are for candidates; RIMC funds are for issues.

REALTORS® of Arizona Political Action Committee (RAPAC)

RAPAC is a voluntary, nonprofit, unincorporated group that allows REALTOR® members to collectively and effectively participate in political affairs. RAPAC is not affiliated with any political party and is non-partisan in its support of candidates.

Where does your RAPAC money go?

RAPAC funds are used to contribute to individual campaigns with the candidate’s knowledge, and/or for independent expenditures on behalf of a candidate without the candidates’ knowledge. Out of every dollar contributed, 70 cents remains in Arizona for state and local races and 30 cents is forwarded to the NATIONAL ASSOCIATION OF REALTORS® Political Action Committee (RPAC) for federal races. ***Contributions must be by personal check or personal credit card. Corporate funds cannot be used.***

What happens to the 70 cents that stays in Arizona?

15 cents – can be used by your local association to support local candidates. After your local association meets its annual fundraising goal, 50 cents per dollar is retained for local use. 55 cents — is used by AAR to support state candidates. Our key successes at the legislature are due to RAPAC contributions working with lobbying efforts.

Where does your RIMC money go?

Funds are raised primarily through direct donations from members and corporate entities. Contributions can be by personal or corporate check or credit card. 25 cents of every dollar raised is retained for local association use up to a limit of \$100,000 per local association, and 75 cents is retained for statewide use.

Our key successes at the legislature are due to RAPAC contributions working with lobbying efforts.

REALTORS® Issues Mobilization Committee (RIMC)

Issues Mobilization is a tool to help support your community issues financially. The RIMC seeks to improve public policy by encouraging and stimulating REALTORS® and others to take a more active and effective role in governmental decision-making and the legislative process, and assists local associations in the organization of their own committees. RIMC monies are used for programs such as postcard campaigns; local board issues; newspaper, radio and TV ads; forums; educational print materials; ballot measure campaigns; and grassroots lobbying activities.

It is important to note that financial support of candidates is not an authorized use of these funds. Simply, RIMC monies are used to influence issue outcomes vs. individual election outcomes.

Thanks to RIMC, we successfully supported a “YES” campaign for Proposition 100. This important legislation will protect the rights of private property throughout Arizona against double-taxation from any real estate transfer tax.

RIMC funds have also been deployed successfully in home owner insurance reforms, hiring water attorneys to defend property owners’ rights to display for sale signs in their yards in HOAs, protecting Arizona’s water from legal challenges by adjacent states and opposing real estate and professional service taxes. RIMC has racked up a number of successes for the benefit of REALTORS® and their clients. 🏠



THE BENEFITS OF ASSOCIATION MEMBERSHIP

BENEFIT: GET PEACE OF MIND WITH GROUP INSURANCE PLANS

MEDICAL/DENTAL/VISION

Individuals	Aetna Health Insurance800-694-3258	www.aetna.com/members/individuals/index.html
Major, short-term, MSA	Clarendon National Insurance480-471-3836, 877-489-6241.....	www.associationbenefitsofamerica.com
Major, PPO, HMO, high risk	Benefits4u480-948-8010, 800-856-8612.....	www.benefits4u.us
Major, PPO, HMO	Blue Cross/Blue Shield623-889-7600, 800-252-5812.....	www.groupplansaz.com
Individual & small group, HMO	Catlau Insurance Services602-690-0259	
Health care discounts	HealthOne Network954-465-1401	www.healthonenetwork.com
HSA, PPO, short-term	Member Health Insurance Center866-395-1794	www.aarhealthbenefits.com
Health care discounts	National Benefit Advisory480-948-8010, 800-856-8612.....	www.benefits4u.us
Major, PPO, HMO	TFW Insurance480-990-2770, 800-840-2331	
Dental	Delta Dental602-274-5493	www.deltadentalaz.com/employer/AAR
Dental	Ins/Mark of America800-847-7503	www.aaronline.com/documents/InsMarkdental.aspx
Dental, Vision	AmeriPlan USA602-788-3451	www.aaronline.com/documents/AmeriPlan.pdf
Dental, Vision	Greater Insurance Co.800-747-4472	www.gisconline.com
Vision	Outlook Vision800-342-7188	www.outlookvision.com
Vision, contact lens, lasik	EyeBenefits800-621-7900	www.eyebenefits.com
Vision, lasik	Amerisight/EyeBenefits800-621-7900	www.aaronline.com/documents/Amerisight.pdf

OTHER

Disability, critical illness, life	Association Benefits of America480-471-3836, 877-489-6241.....	www.associationbenefitsofamerica.com
Life, disability	Bertholon-Rowland800-541-2874	
Prescription drugs	Ins/Mark of America800-847-7503	www.theins-mark.com
Prescription drugs	Network America877-326-5990	
Errors & Omissions	various	www.aaronline.com/documents/eo_ins.aspx

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For more benefits information, go to the **AAR website, www.AARonline.com**, and the **NAR website, www.realtor.org/realtor_benefits**. Many more benefits are available through your local association, AAR, and NAR.

MEMBER BENEFITS

THE BENEFITS OF ASSOCIATION MEMBERSHIP



BENEFIT: WORK SMARTER WITH TECHNOLOGY AT DISCOUNT RATE

Computers
Computers and software
Email large files securely
Real estate forms
Transaction management

Dell, IBM, HP (NAR sponsored)800-874-6500www.realtor.org/realtor_benefits/index.html
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SecureSend/Leapfile888-716-9380www.aarsend.com
ZipForm (Tech Support)800-383-9805www.aaronline.com/zipform/default.aspx
AAR Transaction Management.....866-833-7357www.aaronline.com/tm

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Closing gift
Credit card
Credit union
Identity theft protection
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Shipping services

Auto-Travel Club of America901-309-0246www.auto-travelclubofamerica.com/AAR/
Arizona Highways subscription.....800-543-5432
MBNA America800-932-2775www.applyonlinenow.com/USCCapp/Ctl/entry?sc=FAAA65
Arizona Central Credit Union602-264-6421
LifeLock Identity Theft Prevention.....877-543-3562www.lifelock.com/index.php?promocode=AAR
National Office Productswww.nationalofficeproducts.net/ArizonaRealtors
AAR Rebates Mall.....<http://shop.aaronline.mallnetworks.com>
Safeshow, Inc.877-935-3520www.aaronline.com/documents/safeshow.aspx
DHL.....800-636-2377

BENEFIT: ANSWERS TO YOUR QUESTIONS

Dispute resolution
DRS providers
Legal questions

Member magazine
Member websites

Ethics, arbitration, & mediation.....www.aaronline.com/ForRealtors/EthicsArbitrationandMediation
Dispute resolutionwww.aaronline.com/documents/DRS_packet.aspx
AAR Legal Hotlinewww.aaronline.com/documents/hotline_access.pdf
(designated REALTORS® and branch managers only)
Arizona REALTOR® (AZRonline)www.aaronline.com/news
AARonline.....www.AARonline.com
Graduate REALTOR® Institute (GRI)www.azgri.com
Housing Needs Foundation (ARHNF).....www.aarhnf.com
International Real Estate Council (IREC)www.azirec.com
REALTORS® of Arizona Legislative Link (RALLi)www.rallinow.com

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— Jim Sexton, GRI, designated broker, John Hall & Associates

REO BUSINESS-RISK & REWARD

By Lisa Robinson, CIC

Lisa Robinson, CIC
President
Pinnacle Insurance
Consultants

Note: This article is of a general nature and may not be updated or revised for accuracy as statutory or case law changes following the date of first publication. Further, this article reflects only the opinion of the author, is not intended as definitive legal advice and you should not act upon it without seeking independent legal counsel.

The cycles of the real estate market dictate how you generate your business which can present challenges in managing your risk. At the height of the market a few years ago, we were dealing with multiple offers, waiving inspection items and creative ways in which to get an offer accepted.

Today the market is quite different with short sales and REO's being a significant source of opportunity.

Following are some important insurance considerations relating to the requirements put forth in the lender listing agreements.

Errors & Omissions

All E&O Policies define the scope of services that will be covered under the policy. Ideally, the definition of professional services for a real estate firm should include duties of a real estate agent, broker and property manager.

Some policies further define what services are considered to be property management activities. These may include 1) development and implementation of management plans & budget; 2) oversight of physical maintenance of property; 3) solicitation, evaluation and securing of tenants and management of tenant relations, collection of rent and processing evictions; 4) development, implementation and management of loss control and risk management plans for such property; 5) development, implementation and management of contracts and subcontracts (excluding property and liability insurance contracts) necessary to the daily functioning of such property; or 6) personnel administration and record keeping in connection with such property.

If your policy does not cover property management activities or you are operating outside of the scope of your professional services as defined in your E&O policy then your policy will **not cover** any claims that arise from these activities.

Some lender listing agreements require you to provide additional duties that you might not normally provide or are beyond your area of expertise such as safety inspections, environmental inspections or renovations of the property. Several of the policies offered by the current E&O providers specifically state that property management services **do not** include renovation services or analysis or evaluations of, or recommendations concerning environmental hazards or exposures.

You should undertake a rigorous review of your E&O policy with your Insurance Broker to determine where your exposures for uncovered claims exist so you can adequately address funding these risks to the firm. Consideration can be given to placing an additional E&O policy that would cover "property preservation" exposures that can fall outside of the real estate E&O policy.

General Liability

All E&O policies contain an exclusion relating to bodily injury or property damage claims. This is covered under the firm's general liability policy.

Many carriers will write general liability coverage for a real estate office and attach an exclusion for properties you manage and/or properties you list for sale. What this means is they are only providing coverage for your office premises if someone slips and falls while at your office.

When the policy is written in this manner it is not covering you for what you do-listing and selling properties or managing properties. Your exposure as a real estate agent, broker or property manager is when you are out showing property and your negligence causes bodily injury to a 3rd party or property damage.

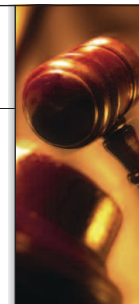
You must confirm the coverage afforded under your current general liability policy addresses the real estate activities you are engaged in. If it does not then you will be faced with defending yourself in an uncovered claim as well as the lender if named as an additional insured under your policy.

You should be aware that residential property management is considered a high risk activity that many carriers are not willing to cover.

Typically these listing agreements will require you to name the lender as an additional insured under your general liability and automobile liability policies. In order to add an additional insured under your policy you must submit to your underwriter for approval and there may be an additional premium charge.

If the listing agreement requires you to cover independent contractors under your general liability policy you will need to address this with your underwriter as general liability policies generally do not provide coverage for independent contractors.

— CONTINUED, PAGE 13



CONTINUED —

You should confirm the limit of liability that the lender requires in your contract. The standard general liability limit is \$1,000,000 per occurrence; \$2,000,000 annual aggregate. If you are required to carry a \$3,000,000 combined single limit you will need to increase your general liability limit to \$3,000,000, if possible, or purchase an umbrella policy to provide the higher limits.

Many of these listing agreements require a full indemnification to the lender. When coverage is

not afforded under an insurance policy, the firm and the agent will be responsible for these uncovered exposures assumed through the agreement.

The reality today is that lenders are shifting **ALL** of their risk to the real estate agent and firm thereby significantly increasing the risk of the transaction. It is important that, following discussions with your insurance broker and attorney, you transfer as much risk as possible to the insurance carrier and determine methods to fund the uninsured risks of this market. 🏠

ETHICALLY SPEAKING

2009 ADDITION TO NAR'S CODE OF ETHICS

By Monica Schulik, RCE, AAR Director, Risk Management

Article 1, Standard of Practice 1-15 relates to disclosing the existence of offers on a property. NAR has sought to clarify the standard of practice by making the following change (added text is underscored): “*REALTORS®*, *in response to inquiries from buyers or cooperating brokers shall, with the sellers' approval, disclose the existence of offers on the property. Where disclosure is authorized, REALTORS® shall also disclose, if asked, whether offers were obtained by the listing*

licensee, another licensee in the listing firm, or by a cooperating broker. (Adopted 1/03, Amended 1/06)”

This change helps to clarify that the duty to disclose the source of offers established in Standard of Practice 1-15 applies only where that information is specifically requested by a buyer or by a cooperating broker. This and all other changes made by NAR's Professional Standards Committee can be found on AARonline.com. 🏠

WHAT IS THE ROLE OF THE GRIEVANCE COMMITTEE IN AN ETHICS COMPLAINT?

By Ann Marie Stevens, AAR Professional Standards Administrator

The Grievance Committee (GVC) is comprised of members of the AAR's Professional Standards Committee. Functioning like a grand jury, the GVC's role is to review newly received ethics complaints to determine whether or not to forward matters to a formal hearing. To make this determination, the GVC must decide if the allegations are considered to be true, should a hearing be granted.

The GVC only makes a preliminary evaluation of a matter to decide if a hearing is warranted. The GVC does not actually hold hearings, nor decide if

members have violated the Code of Ethics. Upon its review of an ethics complaint, the GVC may take the following actions:

- Amend the complaint by deleting/adding article(s) and/or respondent(s);
- Dismiss the complaint as unworthy of further consideration;
- Refer the matter back to the complainant as appropriate for arbitration rather than disciplinary action; or
- Forward the matter to a hearing 🏠



CONTRACTS 101

By Michelle Lind, AAR General Counsel

Q: The parties entered into a Contract, but the home did not appraise for the sales price. What are the buyer's rights?

A: The Contract is contingent upon an appraisal of the premises for at least the sales price (Section 2c). The buyer has five days after notice of the appraised value to cancel the Contract or the appraisal contingency is waived. If the buyer waives the appraisal contingency and is thereafter unable to close escrow due to the appraisal, the buyer will forfeit the earnest money (Section 7b).

Note: “Contract” refers to the 2005 Arizona Association of REALTORS® (“AAR”) *Residential Resale Real Estate Purchase Contract*.

LEGAL HOTLINE

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Find more Hotline questions and answers addressing the following topics by clicking on the category above each question.

By Christopher A. Combs

Phoenix attorney **Christopher A. Combs** is a partner with the firm of **Combs Law Group, P.C.**, and is on the AAR Legal Hotline team.

Note: The following is for informational purposes only and is not intended as definitive legal or tax advice. You should not act upon this information without seeking independent legal counsel. If you desire legal, tax or other professional advice, please contact your attorney, tax advisor or other professional consultant.

Note: Q&As are not "black and white," so experienced attorneys and brokers may disagree. Agents are advised to talk to their brokers/managers when they have questions.

[CLICK HERE TO READ MORE LEGAL HOTLINE QUESTIONS & ANSWERS](#)

SUBDIVISIONS

SPECIAL EXEMPTION AVAILABLE FOR OLD SUBDIVIDED LOTS

Q: The lender foreclosed on twelve homes in a subdivision, and these homes are now REO properties. The public report for the subdivision was issued four years ago. Can the lender sell these homes without a new public report?

A: The statutory public report exemption under A.R.S. § 32-2181.02 for subsequent owners of six or more lots in a subdivision has several requirements, including a requirement that the public report be issued "within the past two years." Therefore, this statutory exemption is not available. On February 8, 2008, however, the ADRE issued Substantive Policy Statement #2008.02. If the requirements of this Substantive Policy Statement are met, including the assured water supply requirement, the ADRE may issue a special order of exemption from the requirement to obtain a new public report.

REMEDIES

LIMITATIONS OF ANTI-DEFICIENCY STATUTES

Q: An owner of a four-acre lot has nearly completed the construction of the home. The mortgage lender has scheduled a trustee's sale to foreclose on the home next week. If the mortgage lender completes the foreclosure next week, does the owner have the protection of the anti-deficiency statutes?

A: No. There are two reasons that the owner does not have the protection of the Anti-Deficiency Statute. See A.R.S. §33-814(G). First, only a home on two and one-half acres or less is protected. Second, the home must be "utilized" as a "dwelling", *i.e.*, occupied, at the time of the foreclosure. See *Mid Kansas Federal Savings and Loan Association of Wichita v. Dynamic Development Corporation*, 167 Ariz. 122, 804 P.2d 1310 (1991). Therefore, if there is a deficiency after the trustee's sale, the mortgage lender has ninety days after the trustee's sale to file a lawsuit for the deficiency. The deficiency would be the difference between the amount of the mortgage loan plus costs less the fair market value of the property (which is not necessarily the amount of the bid price). See A.R.S. § 33-814 (A).

REMEDIES

PURCHASE MONEY LENDER IN SECOND POSITION HAS NO CLAIM AGAINST HOMEOWNER

Q: The buyer purchased a \$100,000 home with 80-20 financing. In other words, one lender made an \$80,000 first purchase money loan, and another lender made a \$20,000 second purchase money loan. The \$80,000 first purchase money loan has foreclosed and now owns the home. Can the \$20,000 second purchase money lender file a lawsuit against the owner to collect the \$20,000 delinquent loan amount?

A: No. If a homeowner borrows money to purchase a home, the Arizona Supreme Court has determined that the intent of Arizona's anti-deficiency statutes is to protect the owner of the home from losing anything more than the home. See *Baker v. Gardner*, 160 Ariz. 98, 770 P.2d 766 (1988). In other words, purchase money loans for homes are generally non-recourse, *i.e.*, the mortgage lender has no recourse against the homeowner for personal liability. Therefore, the purchase money second lender cannot file a collection lawsuit for \$20,000 against the owner of the home.

FINANCING

SELLER MUST AGREE TO LENDER'S REQUIREMENTS FOR APPROVAL OF A SHORT SALE

Q: The seller and the buyer entered into a Contract which included a Short Sale Addendum. The seller submitted the Contract to the lender for approval. The lender has furnished a notice of approval of the Contract, provided that the seller pays the short sale difference in monthly payments over five years. The seller wants to cancel the Contract. The buyer wants the home. If the seller wants to cancel the Contract because the lender's approval requires monthly payments over five years, can the seller cancel the Contract?

— CONTINUED, PAGE 15



LEGAL HOTLINE



CONTINUED —

A: Yes. Lines 9-11 of the Short Sale Addendum provide that the Contract is contingent upon the seller entering into an agreement with the lender acceptable to both the seller and the lender. Therefore, if the seller and the lender do not agree to the terms of the short sale, the seller can cancel the Contract.

LANDLORD/TENANT ISSUES

TENANT NOT ENTITLED TO TERMINATE LEASE FOR MINOR PROBLEM

Q: The landlord and tenant executed a month-to-month lease for a home. The tenant pays to the landlord a security deposit and the first month's rent. On the first day of the lease, the tenant is moving in and notices a water leak in the home and refuses to complete the move into the home. The landlord immediately repaired both the water leak, and all damage caused by the water leak. Can the tenant terminate the lease and receive the return of the first month's rent and the security deposit?

A: Probably not. The landlord immediately repaired the water leak and any damage from the water leak. There was no material breach of the lease by the landlord. Therefore, the tenant can only terminate the lease by delivering to the landlord the thirty-day notice required by A.R.S. § 33-1375(B) to terminate a month-to-month lease.

CONTRACT/CANCELLATION

AFTER DEATH OF BUYER FINANCING CONTINGENCY APPLIES

Q: The buyer qualifies for financing and the transaction is scheduled to close. The day before the scheduled closing date, the buyer dies. The lender then withdraws financing approval. After the death of the buyer, is the buyer's estate required to perform under the contract? If so, and the buyer's estate does not perform under the contract, is the earnest money forfeited to the seller?

A: The general rule is that, unless the contract is a personal services contract such as a listing agreement, the contract is not cancelled upon the death of either party to the contract. Therefore, the buyer's estate is required to perform under the contract after the buyer dies. If there is no longer any qualification for financing, however, the buyer's estate should be able to recover the earnest money because of the unfulfilled loan contingency.

DISCLOSURE AND OTHER LIABILITIES

REO PROPERTY MUST USE LEAD-BASED PAINT DISCLOSURE

Q: The bank has foreclosed on a home built prior to 1978. At the foreclosure sale the bank received a trustee's deed. The bank has now entered into a contract to sell the home, but does not want to use the lead-based paint disclosure forms. Is the bank as the seller of an REO property required to make a lead-based paint disclosure?

A: Yes. The transfer of title to the bank at the foreclosure sale by the use of a trustee's deed is exempt from the lead-based paint requirements. See 24 CFR § 35.82 (a). There is no exemption, however, when the bank is acting like any other seller of real estate.

FIND PAST LEGAL HOTLINE Q&AS ON AARONLINE

You'll find all the Q&As from the last few years on AARonline, categorized for your convenience:

- Advertising
- Agency
- Anti-Trust
- Brokerage
- Commissions
- Contracts
- Disclosure
- Environmental
- Fair Housing
- Financing
- Foreclosures and Liens
- Landlord and Tenant Issues
- Listings
- Miscellaneous
- Remedies
- Subdivision
- Title and Interest in Property



HAVE YOU SIGNED UP FOR THE LEGAL HOTLINE?

The Legal Hotline provides all AAR Broker members (designated REALTORS®) direct toll-free access to a qualified attorney who can provide information on real estate law and related matters. DRs can register for this service at www.aaronline.com/documents/hotline_access.pdf.

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AAR CALENDAR OF EVENTS

*Best Wishes for a Happy and Successful
New Year from the AAR Staff*

- 1 New Year's Day** (AAR office closed)
- 19 Martin Luther King Day** (AAR office closed)

JAN

SUN	MON	TUE	WED	THU	FRI	SAT
	4	5	6	7	1	2
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				