



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. You may also be required to complete and record an affidavit of disclosure if selling property in an unincorporated area of a county.

“...you have a duty to disclose the information, regardless of whether or not you consider the information material.”

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 a misrepresentation: 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® Commercial 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 fully as possible. Attach copies of any available supporting documentation 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 nine general sections:

- (A) Ownership and Property:**
This section asks for general information about the property such as location and ownership. Any seller should be able to answer most, if not all, of the questions in this section.
- (B) Property Type:**
This section indicates whether this is office, industrial, retail, etc.
- (C) Utilities:**
You are asked whether the property currently receives the listed utilities.
- (D) Access/Use:**
This section asks for any easement or restriction information governing the property.
- (E) Compliance with Law/Legal Matters:**
Zoning issues and any previous property violations are addressed here.
- (F) Contractual Obligations:**
This section asks what, if any, contractual obligations are attached to the property.
- (G) Environmental Factors:**
This section deals with the property and the area around it. What, if any, environmental factors such as noise, hazardous materials, etc. are addressed here.
- (H) Reports/Studies:**
If there have been any studies or reports made on this property, you will be asked to address them here.
- (I) Material Physical Defects and Other Factors:**
Any miscellaneous items not addressed elsewhere are addressed in this section.

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.

COMMERCIAL SELLER'S PROPERTY DISCLOSURE STATEMENT (SPDS) *(To be completed by Seller)*

Document updated:
February 2008



The pre-printed portion of this form has been drafted by the Arizona Association of REALTORS®. Any change in the pre-printed language of this form must be made in a prominent manner. No representations are made as to the legal validity, adequacy and/or effects of any provision, including tax consequences thereof. If you desire legal, tax or other professional advice, please consult your attorney, tax advisor or professional consultant.



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 environmental studies, CC&R's, association bylaws, surveys, title report or commitment, etc. (6) Obtain professional inspections of the Property. (7) Investigate the surrounding area. (8) Obtain such other professional advice as you deem necessary.

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

A. OWNERSHIP AND PROPERTY IDENTIFICATION

- THIS DISCLOSURE CONCERNS THE FOLLOWING REAL PROPERTY:
- Address _____
- City _____, County _____, AZ, Zip _____
- Assessors No.(s) _____ Approximate Year Built _____
- Legal Owner(s) _____ Date Purchased _____
- Owner Is Is not occupying property. Owner Has Has not occupied the Property in the past.

B. PROPERTY TYPE

- Office Industrial Retail Hotel/Motel/Resort Multi-family Other _____

C. UTILITIES

- THE PROPERTY IS SERVED BY THE FOLLOWING UTILITIES:
- | YES | NO | PROVIDER |
|--|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Septic System _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Sewer _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Electric _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Domestic Water <input type="checkbox"/> Public <input type="checkbox"/> Private _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Well Registered <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, Registration number: _____ |
| 14. If yes, complete and attach the Domestic Water Well/Water Use Addendum. | | |
| <input type="checkbox"/> | <input type="checkbox"/> | Fuel Supply <input type="checkbox"/> Natural Gas <input type="checkbox"/> Propane <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Garbage/Waste Collection <input type="checkbox"/> Public <input type="checkbox"/> Private _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Fire Protection <input type="checkbox"/> Public <input type="checkbox"/> Private _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Telephone _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Irrigation _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Cable TV _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Satellite Dish _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | High Speed Internet Connection (Cable, T1, Fiber Optics, Etc.) _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Other _____ |
- Please describe any other items concerning utilities _____
 - _____ >>

SAMPLE
SELLER SELLER

<Initials

Initials>

SAMPLE
BUYER BUYER

Commercial Seller's Property Disclosure Statement (SPDS) >>**D. ACCESS/USE**26. **ARE YOU AWARE OF ANY OF THE FOLLOWING AFFECTING ACCESS OR USE OF THE PROPERTY?**

- | YES | NO | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Encroachments |
| <input type="checkbox"/> | <input type="checkbox"/> | Access Easements |
| <input type="checkbox"/> | <input type="checkbox"/> | Utility Easements |
| <input type="checkbox"/> | <input type="checkbox"/> | Unrecorded Easements |
| <input type="checkbox"/> | <input type="checkbox"/> | Reciprocal Easement Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Restrictions on Legal or Physical Access |
| <input type="checkbox"/> | <input type="checkbox"/> | Shared Use Agreements |
| <input type="checkbox"/> | <input type="checkbox"/> | Use Permits |
| <input type="checkbox"/> | <input type="checkbox"/> | Deed Restrictions |
| <input type="checkbox"/> | <input type="checkbox"/> | Shared Fences/Walls |
| <input type="checkbox"/> | <input type="checkbox"/> | Shared Driveways |
| <input type="checkbox"/> | <input type="checkbox"/> | Shared Signage |
| <input type="checkbox"/> | <input type="checkbox"/> | Leased Parking |
| <input type="checkbox"/> | <input type="checkbox"/> | Grandfathered Uses |
| <input type="checkbox"/> | <input type="checkbox"/> | Association Agreements |
| <input type="checkbox"/> | <input type="checkbox"/> | Covenants, Conditions and Restrictions (CC&R's) |
| <input type="checkbox"/> | <input type="checkbox"/> | Other (describe) _____ |

44. If the answer to any of the preceding is yes, please explain. (Attach additional sheets if necessary). _____

45. _____

46. _____

E. COMPLIANCE WITH LAW/LEGAL MATTERS47. **ARE YOU AWARE OF:**

- | YES | NO | |
|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Any legal actions such as condemnation, pending or anticipated, that affect the Property? |
| <input type="checkbox"/> | <input type="checkbox"/> | Any tenant bankruptcy proceedings? |

50. **Any violation of laws or regulations of the following:**

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Zoning |
| <input type="checkbox"/> | <input type="checkbox"/> | Building Code |
| <input type="checkbox"/> | <input type="checkbox"/> | Occupational Safety and Health Administration (OSHA) |
| <input type="checkbox"/> | <input type="checkbox"/> | Utility Service |
| <input type="checkbox"/> | <input type="checkbox"/> | Sanitary Health Regulations |
| <input type="checkbox"/> | <input type="checkbox"/> | Swimming Pools |
| <input type="checkbox"/> | <input type="checkbox"/> | Covenants, Conditions and Restrictions (CC&R's) |
| <input type="checkbox"/> | <input type="checkbox"/> | Americans With Disabilities Act (ADA) |

59. If the answer to any of the preceding is yes, please explain and provide copies of any documentation you have pertaining to such matters. (Attach additional sheets if necessary). _____

60. _____

61. _____

62. _____

F. CONTRACTUAL OBLIGATIONS63. **ARE YOU AWARE OF ANY OF THE FOLLOWING CONTRACTUAL OBLIGATIONS AFFECTING THE PROPERTY?**

- | YES | NO | |
|--------------------------|--------------------------|----------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Tenant Leases or Subleases |
| <input type="checkbox"/> | <input type="checkbox"/> | Alarm/Security System Agreements |
| <input type="checkbox"/> | <input type="checkbox"/> | Property Management Agreements |
| <input type="checkbox"/> | <input type="checkbox"/> | Leased Equipment |

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Commercial Seller's Property Disclosure Statement (SPDS) >>

- | | YES | NO | |
|-----|--|--------------------------|---|
| 68. | <input type="checkbox"/> | <input type="checkbox"/> | Service Agreements such as Landscaping, Garbage/Waste Disposal |
| 69. | <input type="checkbox"/> | <input type="checkbox"/> | Water Treatment Agreements |
| 70. | <input type="checkbox"/> | <input type="checkbox"/> | Communications Systems or Cable System Agreements |
| 71. | <input type="checkbox"/> | <input type="checkbox"/> | Other Equipment or Service Contracts or Agreements (describe) _____ |
| 72. | If the answer to any of the preceding is yes, please explain. (Attach additional sheets if necessary). _____ | | |
| 73. | _____ | | |

G. ENVIRONMENTAL FACTORS

74. **ARE YOU AWARE OF ANY OF THE FOLLOWING ENVIRONMENTAL FACTORS AFFECTING THE PROPERTY?**
- | | YES | NO | |
|-----|--|--------------------------|--|
| 75. | <input type="checkbox"/> | <input type="checkbox"/> | Hazards or hazardous materials on the Property, such as asbestos; chemicals used in the manufacture of methamphetamine, LSD or Ecstasy; PCB transformers; dumps; pesticides; radon; oil or chemicals, now or in the past? |
| 76. | <input type="checkbox"/> | <input type="checkbox"/> | Fuel or insecticide storage tanks (above or underground) on the Property, now or in the past? |
| 77. | <input type="checkbox"/> | <input type="checkbox"/> | Hazards or hazardous materials in close proximity to the Property, such as asbestos, dumps, pesticides, radon, oil, chemicals or underground fuel storage tanks, now or in the past? |
| 78. | <input type="checkbox"/> | <input type="checkbox"/> | Location within an area currently of environmental concern, e.g., Superfund, Water Quality Assurance Revolving Fund (WQARF) or Comprehensive Environmental Response Compensation and Liability Act (CERCLA) sites, etc.? _____ |
| 79. | <input type="checkbox"/> | <input type="checkbox"/> | Current or proposed noises, such as airports, freeways, or rail lines? |
| 80. | <input type="checkbox"/> | <input type="checkbox"/> | Location within the vicinity of an airport (military, public or private)? |
| 81. | <input type="checkbox"/> | <input type="checkbox"/> | Area odors, nuisances or pollutants? |
| 82. | <input type="checkbox"/> | <input type="checkbox"/> | High voltage distribution towers or lines? |
| 83. | <input type="checkbox"/> | <input type="checkbox"/> | Soil settlement, expansion, fissures or erosion now or in the past? |
| 84. | <input type="checkbox"/> | <input type="checkbox"/> | NOTICE TO BUYER: THE ARIZONA DEPARTMENT OF REAL ESTATE PROVIDES EARTH FISSURE MAPS TO ANY MEMBER OF THE PUBLIC IN PRINTED OR ELECTRONIC FORMAT UPON REQUEST AND ON ITS WEBSITE AT www.azre.gov. |
| 85. | <input type="checkbox"/> | <input type="checkbox"/> | Situated on or near a sanitary landfill? |
| 86. | <input type="checkbox"/> | <input type="checkbox"/> | Location in a flood plain/way? |
| 87. | <input type="checkbox"/> | <input type="checkbox"/> | Water-caused damage? |
| 88. | <input type="checkbox"/> | <input type="checkbox"/> | Mold growth or conditions conducive to mold? |
| 89. | <input type="checkbox"/> | <input type="checkbox"/> | Drywell (drainage)? If yes, Registration # _____ |
| 90. | If the answer to any of the preceding is yes, please explain and provide copies of any documentation you have pertaining to such matters. (Attach additional sheets if necessary). _____ | | |
| 91. | _____ | | |
| 92. | Describe any other known environmental factors that might affect the use or value of the Property _____ | | |
| 93. | _____ | | |
| 94. | Buyers are advised to obtain an independent environmental assessment of the Property. | | |

H. REPORTS/STUDIES

101. **DO YOU HAVE ANY OF THE FOLLOWING ITEMS CONCERNING THE PROPERTY?**
- | | YES | NO | |
|------|--|--------------------------|---|
| 102. | <input type="checkbox"/> | <input type="checkbox"/> | Soils Test Report |
| 103. | <input type="checkbox"/> | <input type="checkbox"/> | Land Survey |
| 104. | <input type="checkbox"/> | <input type="checkbox"/> | Flood Plain Report |
| 105. | <input type="checkbox"/> | <input type="checkbox"/> | Septic/Waste Disposal Reports/Certifications |
| 106. | <input type="checkbox"/> | <input type="checkbox"/> | Registrations of Wells |
| 107. | <input type="checkbox"/> | <input type="checkbox"/> | Any Environmental Site Assessments or Studies |
| 108. | <input type="checkbox"/> | <input type="checkbox"/> | Title Reports |
| 109. | <input type="checkbox"/> | <input type="checkbox"/> | Other _____ |
| 110. | If the answer to any of the preceding is yes, please explain and provide copies of any reports/studies you have pertaining to such matters. (Attach additional sheets if necessary). _____ | | |
| 111. | _____ | | |
| 112. | _____ >> | | |

