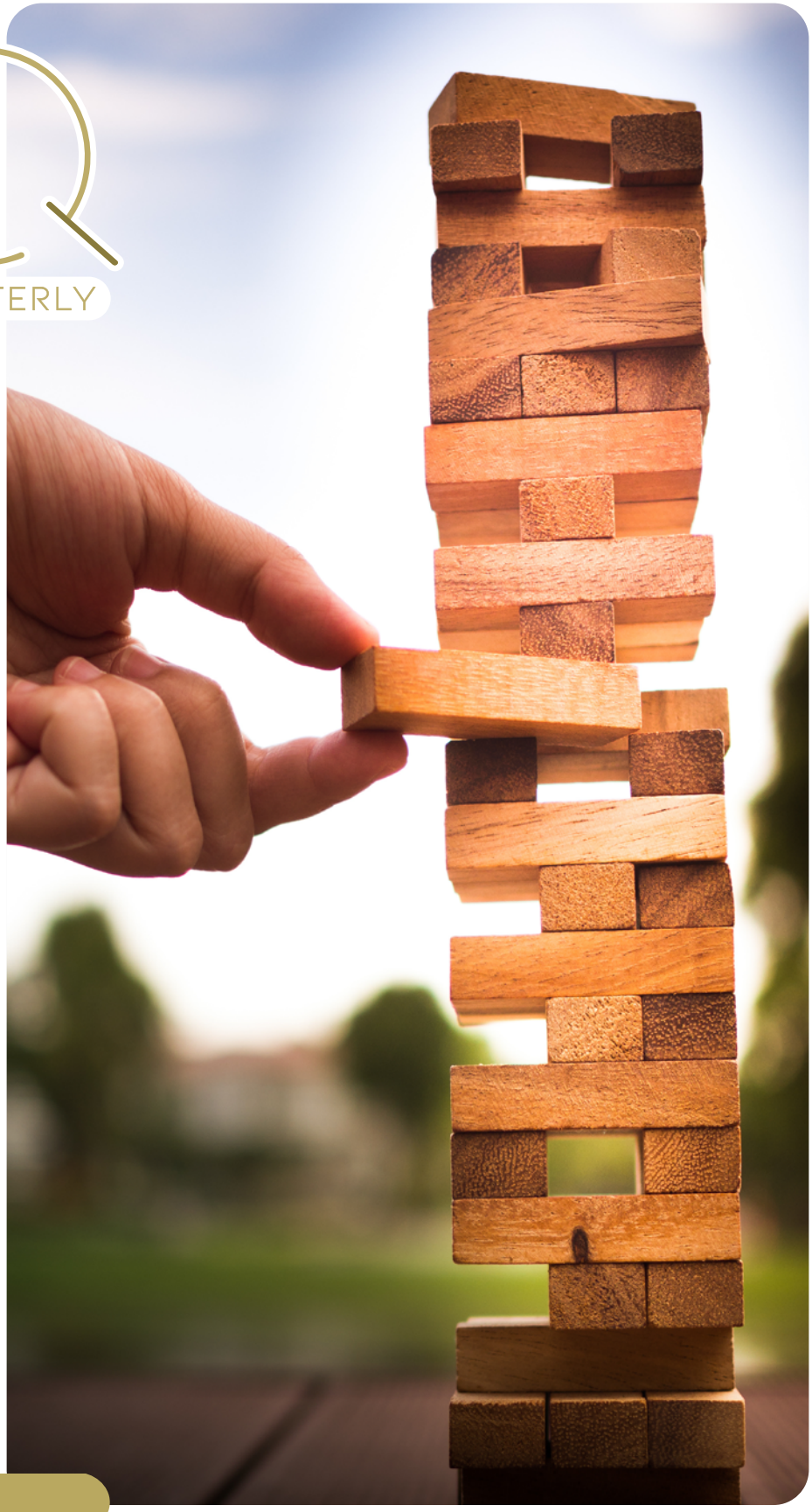
Q2 2025

ARIZONA REALTORS®

BMQ

BROKER | MANAGER QUARTERLY



ADJUSTING TO NEW CHANGES

MAY 2025

TRENDING TOPICS

Q2
2025

Questions or Comments: editor@aaronline.com

ARIZONA REALTORS®

BMQ

BROKER | MANAGER QUARTERLY

IN THIS ISSUE

NAR ISSUES NEW GUIDANCE AND EXCEPTIONS TO ITS CLEAR COOPERATION POLICY

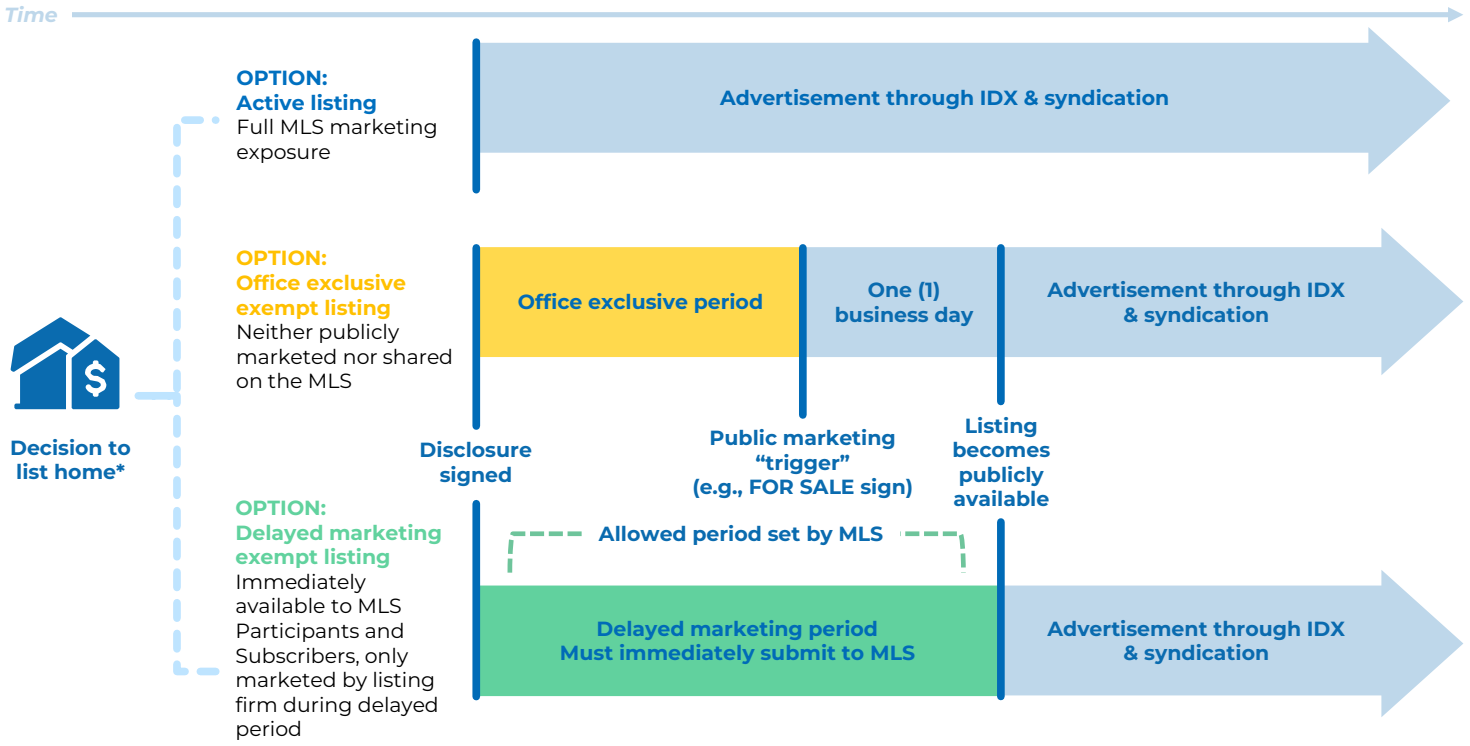
On March 25, 2025, the National Association of REALTORS® issued a new MLS Policy Statement that:

1) clarifies existing CCP requirements;
2) provides a new exemption to CCP which is referred to as "Delayed Marketing Exempt Listings"; and
3) requires a signed disclosure if a seller chooses a marketing plan that is exempt from CCP.

These new MLS options for sellers will work alongside the existing CCP policy and must be implemented by September 30, 2025.

CLICK HERE TO LEARN MORE

MULTIPLE LISTING OPTIONS FOR SELLERS



**Consumers always have the option to file their property as a regular MLS listing which is immediately available to MLS Participants and Subscribers and advertised through IDX and syndication.*

NATIONAL ASSOCIATION OF REALTORS®

DISCLOSURE REQUIREMENTS FOR REAL ESTATE LICENSEES WITH A FINANCIAL INTEREST IN A TRANSACTION

Arizona Deaprtment of Real Estate

In the real estate industry, transparency and ethical conduct are paramount. Real Estate licensees must adhere to strict disclosure requirements, especially when they have a financial interest or receive anything of value beyond the negotiated compensation they earn for providing real estate services. Failure to disclose such interests can lead to legal consequences, disciplinary actions, and loss of consumer trust.

UNDERSTANDING FINANCIAL INTEREST IN A TRANSACTION

A real estate licensee is considered to have a financial interest in a transaction when the licensee stands to gain financially beyond their negotiated compensation. This may include but is not limited to:

- Ownership interest in the property being sold or purchased
- Ownership interest in a title company, mortgage company or other service provider
- Receipt of "free" services or discounted benefits from a company or entity that stands to benefit financially from the real estate transaction. Some examples include:
    - "Free or Discounted" transaction coordinator services
    - "Free or Discounted" software or applications
    - "Free or Discounted" printing of flyers / marketing materials
    - "Free or Discounted" postage / mailings of marketing materials
    - "Free or Discounted" attendance at an event or conference
- Receipt of payment from a company or entity involved in the transaction for:
    - Consulting
    - Advising
    - Recording a Podcast

OTHER CONSIDERATIONS

Failure to disclose a financial interest or the receipt of a thing of value can lead to serious consequences. To ensure compliance and maintain professional integrity, a real estate licensee should:

- Familiarize them self with state and federal laws. There are laws outside of the Arizona Department of Real Estate's scope of enforcement and authority that may need to be considered depending on the type of financial interest a licensee has.
- Make disclosures early and in writing.
- Encourage clients to seek independent legal or financial advice when necessary.
- Keep detailed records of all disclosures and communications

Real estate licensees must prioritize dealing fairly with all parties and licensee's fiduciary duties to their client when licensees have a financial interest in a transaction beyond their negotiated compensation. Proper disclosure protects both consumers and professionals, ensuring ethical and fair dealings in the real estate market. By adhering to disclosure laws and best practices, licensees can build trust, avoid legal pitfalls and uphold the integrity of the real estate profession.

ADRE SEEKS COMMENTS ON PROPOSED RULE CHANGES

The Arizona Department of Real Estate is revising applicable portions of the Arizona Administrative Code for the first time in many years. Over the past few months, the Department sought feedback from stakeholders, including the Arizona REALTORS®, and implemented many of the suggestions that were provided. The latest version of the proposed rule revisions has now been published, and the Department is seeking public comment through July 8, 2025.

As a real estate practitioner in Arizona, it is important for you to take the time to review the proposed rule revisions and submit comments or concerns during the public input period. This is your chance to shape how the rules will impact you and the industry as a whole.

To view the latest version of the Department rule revisions (4 A.A.C. 28, pages 1495-1529), click **HERE**.

To provide your suggestions, email **lrecchia@azre.gov** or mail your comments to:

Arizona Department of Real Estate
100 N. 15th Avenue
Phoenix, AZ 85007

Q1 LEGISLATIVE UPDATE

Each year our legislative policies are approved by the Board of Directors and guide our advocacy team on which issues to prioritize to support our members. This process begins each summer at the Arizona REALTORS® Caucus where we hear from all our members, the industry practitioners, on which issues are impacting them most.

The Arizona REALTORS® are hard at work during the 2025 Legislative Session tracking bills that impact our industry. We are advocating to protect our member's ability to do business, private property rights, and homeownership. Follow along as Arizona REALTORS® Senior Director of Government Affairs, Tim Beaubien provides our Legislative Update of the specific issues impacting the real estate industry this year.

ARIZONA REALTORS®
KEY CONTACT
PROGRAM

The Key Contact program pairs a REALTOR® with every member of the state legislature so our elected officials can hear directly from our industry practitioners on what is happening in the real estate industry. You are your own best advocate, so whether you have an existing relationship with a state lawmaker or are willing to build a relationship with an elected official, the Arizona REALTORS® are here to help you succeed as a Key Contact or a Contact Team member.

Become part of the Arizona REALTORS® Key Contact Program

WATCH NOW

DO'S AND DON'TS: UNREPRESENTED BUYER

UNREPRESENTED BUYER? NO PROBLEM!

Before spending hundreds of thousands of dollars in what may be the largest purchase of their lifetime, many buyers seeking to purchase real estate, whether it be residential or commercial, choose to be represented by a REALTOR®. However, hiring the services of a REALTOR® is optional and some buyers choose to either represent themselves or retain the services of a real estate licensee or attorney who is not a REALTOR®. While this is 100% permissible, it can raise procedural questions for the listing agent who must interact with the buyer and their non-REALTOR® representative, if any.

First and foremost, listing agents that find themselves in this situation should keep in mind that they owe a duty of good faith and fair dealing to all parties, irrespective of whether the party is represented by a real estate professional. Absent a limited representation scenario, a broker under a listing agreement with a seller acts as the broker for the seller only and owes fiduciary duties of loyalty, obedience, disclosure, confidentiality, and accounting in dealings with the seller. But regardless of who the broker represents in the transaction, they must exercise reasonable skill and care in the performance of their duties and shall be truthful and honest in their dealings with all parties. This remains the case when the buyer is unrepresented. To help explain these concurrent duties to the unrepresented buyer and confirm their exclusive agency to the seller, it would be best for the REALTOR® to provide the Unrepresented Buyer Disclosure to the Buyer.

One procedural challenge faced by listing agents when dealing with buyers not represented by a REALTOR® is the contractual documents to be utilized in the transaction. Arizona REALTORS® forms are original works protected by federal copyright laws. These copyrighted forms are made available as a member benefit meaning that association members are authorized to use the forms when representing clients in their real estate transactions.

Since individuals that are not REALTORS® are prohibited from generating Arizona REALTORS® forms, purchase offers submitted by unrepresented buyers should not be made using an Arizona REALTORS® Residential Resale Real Estate Purchase Contract. Rather, the unrepresented buyer must procure their own purchase contract whether it be obtained from the internet, an attorney, or a title company. In these instances, listing agents must remember that Arizona law requires them to submit all offers to their seller unless they have written instructions to the contrary. A.A.C. R4-28-802(B) states in part:

"During the term of a listing agreement, a salesperson or broker shall promptly submit to the salesperson's or broker's client all offers to purchase or lease the listed property."

So regardless of the purchase contract utilized by the prospective buyer, the listing agent is duty-bound to present the offer to their seller.

Arizona REALTORS® are accustomed to using the association's forms in conjunction with their real estate transactions, including the Residential Resale Real Estate Purchase Contract. This is understandable considering that they have likely received education on the use of this specific contract which was drafted in an effort to be fair to both buyer and seller. However, use of the Arizona REALTORS® Purchase Contract is not legally required and the parties are free to contract using any form they deem best.

If a listing agent and their seller receive a purchase offer written on a form other than the Arizona REALTORS® Purchase Contract, it is recommended that the REALTOR® contact their designated broker for guidance. Depending on the complexity of the purchase offer, the REALTOR® may be able to note the differences for the seller to make an informed decision on how to proceed. It may also be appropriate for the seller to seek the advice of independent legal counsel and the listing agent should recommend that they do so when appropriate.

If the seller prefers the Arizona REALTORS® Purchase Contract, the listing agent should submit a counteroffer using that form. Although a non-REALTOR® is prohibited from generating an offer on an Arizona REALTORS® form, it does not mean that such a form cannot be used in the transaction. Provided the form is generated by the listing agent who is a REALTOR®, the use of Arizona REALTORS® forms in a transaction involving a buyer not represented by a REALTOR® is perfectly acceptable.

Ultimately, it is the job of the listing agent to procure a purchase offer acceptable to the seller and represent the seller's interests to the best of their ability. These obligations remain regardless of which transactional documents are utilized in the transaction and regardless of whether the buyer is represented by a REALTOR®.

WHAT THE HECK IS THE "STANDARD OF CARE"?

You have likely heard the phrase "standard of care," but what the heck is it? Well, the term "standard of care" is a legal concept that is generally applied to the conduct of any professional, such as a doctor, a lawyer, or an engineer, and the legal concept of "standard of care" applies to real estate professionals as well.

THE STANDARD OF CARE REQUIRES REASONABLE CARE

The standard of care requires that a real estate agent exercise the degree of care that a reasonable agent would exercise in the same or similar circumstances. Figuring out what is "reasonable" under the circumstances is generally the hard part.

What constitutes reasonable care in a transaction varies depending on the situation. The specific conduct, disclosures, advice, and counsel required of an agent depend on the facts of each transaction, the knowledge and the experience of the client, the questions asked by the client, the nature of the property and the terms of sale. You are not required to be perfect, but you are required to act with reasonable care.

Reasonable care may include:

- Resisting any temptation to provide advice that is outside the area of expertise for a real estate licensee.
- Recommending other professionals when necessary to perform inspections and investigations or to provide legal and tax advice.
- Assisting your client in verifying information when you have reason to question the accuracy of the information being provided or when your client has questioned the information.
- Disclosing all known material defects existing in the property. If you have to ask whether a fact must be disclosed, the answer is probably "yes."
- Practicing within your area of expertise.

- Understanding the purchase contract and related documents.
- Using standard forms and not modifying the boilerplate language whenever possible.
- Complying with the ADRE Statutes and Commissioner's Rules. https://azre.gov/laws-rules-policy-statements-and-advisories.

If you are unsure what is reasonable under the circumstances or how to handle a situation, always consult with your designated broker or manager for guidance.

THE BATTLE OF THE EXPERTS IN DETERMINING THE STANDARD OF CARE

How does the judge, jury or arbitrator in a lawsuit determine what a "reasonable" real estate professional would do in the same or similar circumstances? That is where the experts come in.

The standard of care is generally established by expert testimony, unless the conduct required by the situation is within the common knowledge of a layperson. Therefore, a plaintiff buyer or seller that alleges that a defendant agent acted negligently usually must present the testimony of a qualified expert, in other words, another agent, that the defendant agent acted unreasonably and fell below the standard of care.

The defendant agent will generally do the same – present the testimony of another agent as an expert witness that will testify that the agent's actions were reasonable under the circumstances and within the standard of care.

The judge, jury or arbitrator will consider the testimony of each expert along with the rest of the evidence presented and make the determination of whether the agent complied with the standard of care. If not, there are consequences.

CONSEQUENCES OF FALLING BELOW THE STANDARD OF CARE

If an agent's conduct falls below the standard of care, the agent is negligent. Once an agent's negligence is established in a lawsuit, the agent will be held liable to the plaintiff buyer or seller for all damages (money) caused by the negligent conduct. Additionally, any judgment arising from such a case must be reported to the ADRE within ten days and the ADRE may impose regulatory sanctions as well.

TIPS TO HELP YOU PRACTICE WITHIN THE STANDARD OF CARE

The following is a list of tips to help you exercise reasonable care and practice within the standard of care.

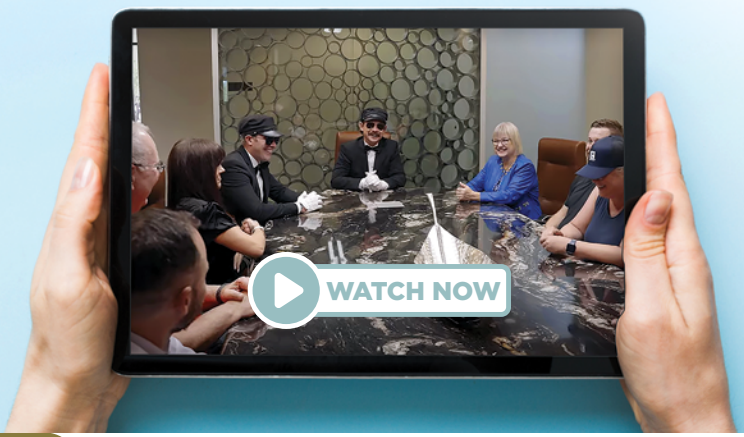
- Get to know your client and their concerns.
- Read and understand the purchase contract & related forms.
- Educate your client on the process and documents.
- Use standard forms and its boilerplate language whenever possible.
- Avoid shortcuts, such as incorporating other documents into the contract or adding terms that are insufficiently drafted or incomplete.
- Handle all offers properly and promptly.
- Practice only within your area of expertise, both in practice area and geographically.
- When in doubt, disclose – and do it in writing.
- Assist your client with disclosures & due diligence.
- Think before you speak – don't speculate or guess. Identify the source of any information provided and direct your client to the source if possible.
- Verify information if you have reason to question the accuracy of information being provided in a transaction or if your client has questioned the accuracy of the information.
- Document the transaction – take contemporaneous notes and confirm important issues in writing.
- Communicate, communicate, communicate – answer your phone and promptly return calls to clients and the other agent. Talking is almost always better than texting.

Don't forget – you are a professional. By complying with the standard of care, you not only reduce the potential of costly and time-consuming lawsuits, but also reduce the risk that your clients will encounter problems during or after the transaction.

The REALTOR® Party is a vital part of the Arizona REALTORS® Government Affairs program — a program that includes professional lobbying, legislative analysis, grassroots contacts, and long-term political relationships. It strives to educate city council members, legislators and members of congress about our industry and guarantees that no decision is made that will affect our industry, good or bad, until our voice is heard.

Did you know your office can support the REALTOR® Party through a business investment in the Corporate Ally program? Learn more by watching the video below!

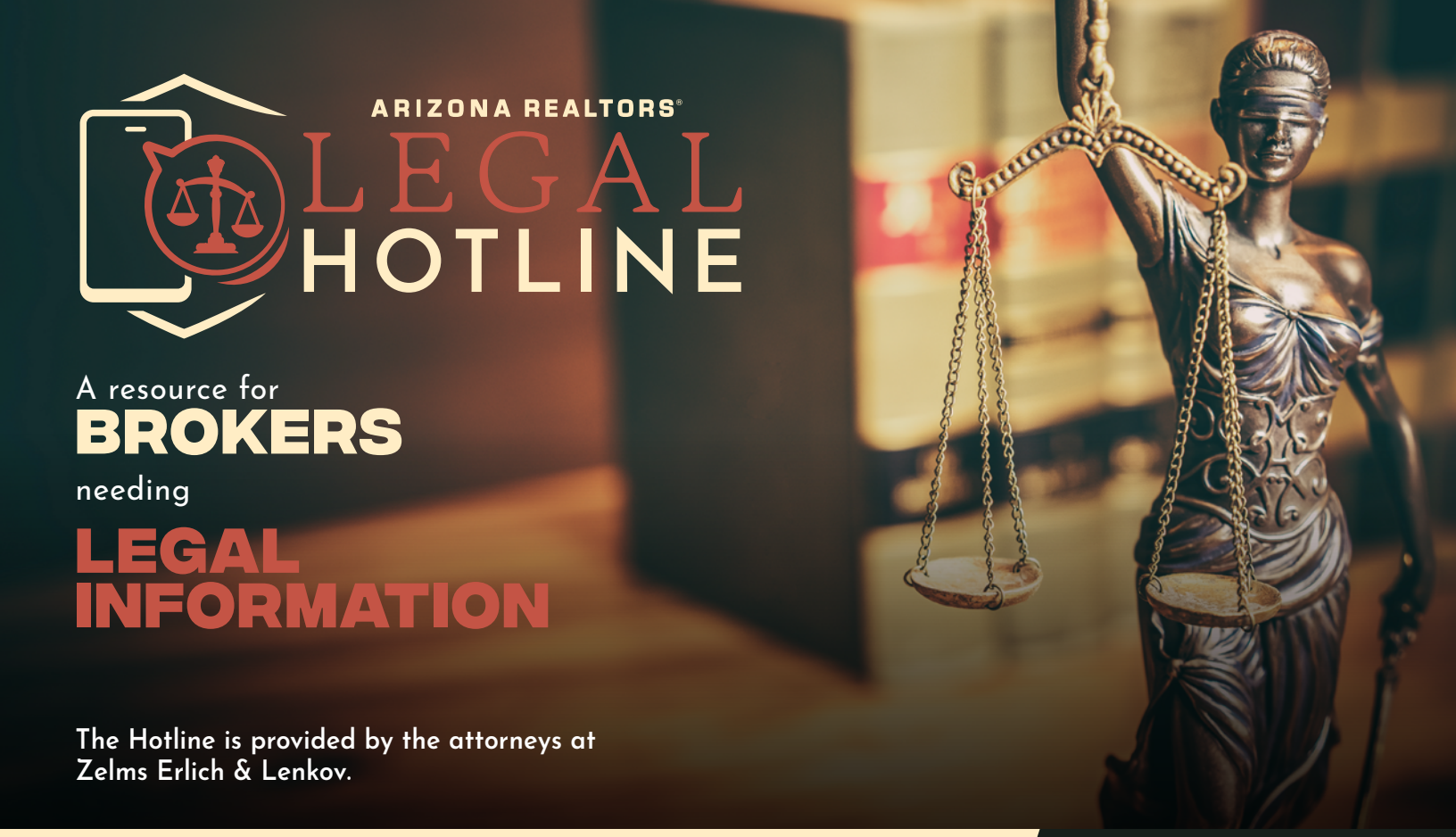
If you are interested in having your office hear more about the advocacy work of the Arizona REALTORS®, contact Tim Beaubien, Arizona REALTORS® Senior Director of Government Affairs at timbeaubien@aaronline.com to schedule a visit.



ARIZONA REALTORS®

CORPORATE ALLY PROGRAM

The Corporate Ally Program (CAP) is a powerful partnership between the Arizona REALTORS® and corporate allies aimed at protecting, promoting and strengthening the real estate industry.



ARIZONA REALTORS®

LEGAL HOTLINE

A resource for
BROKERS
needing
LEGAL INFORMATION

The Hotline is provided by the attorneys at Zelms Erlich & Lenkov.

THE ARIZONA REALTORS® LEGAL HOTLINE IS DESIGNED:

- As a free member benefit for Designated REALTORS® (Designated Brokers) to have direct access to a qualified attorney who can provide information on real estate law and related matters.
- To answer legally related questions about the many diversified areas of today's real estate industry.

Primary access to the Hotline is for Designated Brokers, who may also give access to one REALTOR® or REALTOR-ASSOCIATE® member per office and/or branch.

For More Information Please Contact

Jamilla Brandt, Arizona REALTORS® Risk Management Coordinator at:

jamillabrandt@aaronline.com

GET ANSWERS TODAY

www.aaronline.com/manage-risk/legal-hotline/

ARIZONA REALTORS®

ARIZONA REALTORS® LEGAL HOTLINE

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.

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.

BUYER'S FINANCING CHANGES REQUIRE NOTICE TO SELLER

FACTS: Buyer and seller entered into an Arizona REALTORS® Residential Resale Real Estate Purchase Contract ("Contract"). Two weeks prior to the close of escrow date, the buyer changed loan programs.

ISSUE: Does the buyer's change in loan programs require seller's consent?

ANSWER: See Discussion.

DISCUSSION: Pursuant to the Contract at Section 2k, the buyer is obligated to immediately notify the seller of any changes in the loan program, financing terms, or lender described in the Pre-Qualification Form attached with the offer or the LSU provided, within ten days after Contract acceptance. The buyer is permitted to make any such changes without the prior written consent of the seller if the changes do not:

1. adversely affect the buyer's ability to obtain loan approval without conditions,
2. increase the seller's closing costs, or
3. delay the close of escrow.

REMOTE ACCESS INTO HOUSES

FACTS: A landlord has asked if the property manager can provide remote access allowing renters to enter vacant properties.

ISSUE: Can a property manager provide potential renters remote access to a vacant property?

ANSWER: See Discussion.

DISCUSSION: A remote access, which allows users a one-time access code to enter into a vacant rental for potential tenants to view the property, is legal. However, there is risk involved. There is always the chance that the caller is posing as a potential tenant, but in actuality is interested in stealing appliances or copper wiring. There have also been scams where people enter a property, change the locks, and then try to "rent" the property out to other unsuspecting tenants.

Therefore, the best business practice would be to show the property with an agent physically present.

DISLCOSURE OF OFFERS AND TERMS MAY BE PROVIDED

FACTS: A listing agent received two offers on his listing. A buyer's agent called and asked if the listing agent had any offers, and if so, what were the offers?

ISSUE: Does an agent have to disclose an offer and, if so, does the agent have to disclose the terms?

ANSWER: See discussion.

DISCUSSION: Commissioner's Rule R4-28-1101(A). Duties to Client: A licensee owes a fiduciary duty to the client and shall protect and promote the client's interests. The licensee shall also deal fairly with all other parties to a transaction. Commissioner's Rule R4-28-802(B) states: **Upon receiving permission** from the seller or lessor, the salesperson or broker acting on behalf of the seller or lessor may disclose to all offerors or their agents the existence and terms of all additional offers on the listed property (emphasis added). Thus, the listing agent can disclose the terms of the two offers if the seller provides him with permission to disclose the terms.

Note: The best business practice would be to get the seller's permission in writing.

PREVIOUS LISTING AGENT STILL BOUND BY CONFIDENTIALITY

FACTS: Broker A had a property listed two years ago. The sellers ultimately decided not to sell at that time, and the

listing expired. Two years later, the property is for sale with Broker B. Broker A has a buyer that is interested in making an offer on the property. Broker A knows that the Mrs. Seller is ill and this might be helpful in negotiations for his buyer. However, the knowledge was obtained while Broker A had the property listed for sale two years ago.

ISSUE: Can Broker A disclose the information to the buyer?

ANSWER: No.

DISCUSSION: After termination of an agency relationship, the fiduciary duty is ended. *See Coldwell Banker Commercial Group v. Camelback Office Park*, 156 Ariz. 226, 231, 751 P.2d 542, 547 (1988). However, pursuant to the Restatement (Second) of Agency: 1 §396 Using Confidential Information after Termination of Agency:

Unless otherwise agreed, after the termination of the agency, the agent:

(d) has a duty to the principal not to take advantage of a still subsisting confidential relation created during the prior agency relationship.

Therefore, Broker A's continuing duty of confidentiality to the seller after the listing expired would preclude him from disclosing the confidential information about Mrs. Seller even after termination of the agency relationship, unless Broker A obtains Mrs. Seller's consent.

LANDLORD MAY HIRE A PROPERTY MANAGER AFTER LEASE EXECUTION

FACTS: A landlord entered into an Arizona REALTORS® Residential Lease Agreement with a tenant. Two months later, the landlord realized she travels too much and wouldn't be available to perform her duties as a landlord. She therefore decided to hire a property management company. The landlord gave proper notice to the tenant that payments would now be collected by a property management company. The tenant refused to acknowledge the property management company and stated he would only make payments to the landlord, because that's who he contracted with.

ISSUE: Can a tenant refuse to make payments to a property management company at the direction of the landlord?

ANSWER: No.

DISCUSSION: Arizona courts have recognized an agency relationship between a broker and a client in a real estate transaction since the early 1900s. *See Jenkins v. Irvin*, 20 Ariz. 164, 178 P. 33 (1919). Therefore, the landlord has the ability to hire a property manager as her agent. The landlord gave proper notice pursuant to page 6 of the lease. The lease has not been affected. Therefore, the tenant should now submit payment to the property manager as the Landlord has directed.

Note: The Arizona REALTORS® has a Notice to Tenant of New Management form available to notify the tenant of the new property management company.

CURE NOTICE MUST BE DELIVERED TO BUYER THROUGH AGENT

FACTS: Wednesday was the Close of Escrow Date. The buyer did not close escrow. Thursday, the listing agent delivered a Cure Notice to the Title Company and to the buyer's lender. The listing agent did not send a copy of the Cure Notice to the buyer's agent

ISSUE: Did the buyer receive a valid Cure Notice?

ANSWER: No.

DISCUSSION: Pursuant to Section 7a of the Arizona REALTORS® Residential Resale Real Estate Purchase Contract: If a party fails to comply with any provision of this Contract, the other party shall deliver a notice to the non-complying party specifying the non-compliance. Because neither the buyer nor the buyer's agent received a copy of the Cure Notice, the buyer has not been given a valid Cure Notice. The listing agent should immediately provide a Cure Notice to the buyer's agent.

NO REQUIREMENT FOR A PROPERTY TO BE ON THE MLS TO ESTABLISH AGENCY

FACTS: A seller approaches a real estate agent asking the agent to draft and negotiate a residential real estate contract for the seller's property. The seller has already found a buyer to purchase the property.

ISSUE: Is the agent permitted to draft and negotiate a purchase contract for the Seller's benefit even if the property is not listed on the Multiple Listing Service ("MLS")?

ANSWER: See Discussion.

DISCUSSION: Article 26, Section 1 of the Arizona Constitution states:

Any person holding a valid license as a real estate broker or a real estate salesman…when acting in such capacity as broker or salesman for the parties, or agent for one of the parties to a sale…shall have the right to draft or fill out and complete, without charge, any and all instruments incident thereto. Therefore, as long as the real estate agent is representing the seller in the transaction, there is no requirement for the property to be listed on the MLS. The real estate agent may proceed to draft a contract and negotiate the sale on behalf of the seller.

However, if the agent is not representing a party to the sale, they are not permitted to draft the purchase contract.

THE BUYER IS NOT REQUIRED TO DISCLOSE APPRAISAL

FACTS: The seller and buyer executed an Arizona REALTORS® Residential Resale Real Estate Purchase Contract (Contract). In the Contract, the seller agreed to pay the appraisal. Buyer is now cancelling the contract based on the appraisal contingency due to a low appraisal. Seller is demanding to see the appraisal because seller paid for the appraisal.

ISSUE: Is the buyer required to disclose the appraisal to the seller?

ANSWER: No.

DISCUSSION: Even though the seller chose to pay for the appraisal, the mortgage lender orders the appraisal and is the appraiser's client; not the seller. Pursuant to the Equal Credit Opportunity Act, the lender is required to automatically send a free copy of the home appraisal and all other written valuations on the property after they are completed to the applicant (aka buyer).

Pursuant to Section 2l of the Contract, if the Premises fail to appraise for the purchase price in any appraisal required by lender, the Buyer has five (5) days after notice of the appraised value to cancel this Contract. Therefore, the Buyer is only contractually bound to send a cancellation, not the actual appraisal report, to the Seller to assert the appraisal contingency.

SELLER MAY NOT WITHDRAW BINSR RESPONSE AFTER BUYER ACCEPTS

FACTS: Buyer sent Seller an Arizona REALTORS® Residential Buyer's Inspection Notice and Seller's Response ("BINSR") providing the Seller the opportunity to correct disapproved items. Within three days, the Seller agreed to correct the disapproved items, and indicated so by sending the BINSR back to the Buyer, with the Seller's signature on the bottom of page three. The Buyer signed the BINSR, and accepted the Seller's response.

The next day, the Seller received a full-price offer from a different buyer. The Seller, believing she was still within her five day response period, then instructed her agent to draft a second BINSR indicating the Seller would not make any repairs, and sent it to the first Buyer. The Seller also stated she was withdrawing the first BINSR.

ISSUE: Can the Seller issue two different BINSR's within the five day response period?

ANSWER: No.

DISCUSSION: There is an implied covenant of good faith and fair dealing in every contract. *Lombardo v. Albu*, 199 Ariz. 97, 14 P.3d 288 (Ariz. 2000). Pursuant to the contract, the Seller agreed, in writing, to repair the items disapproved through the first BINSR. The Buyer accepted the Seller's response. The two parties had a mutually signed agreement. Therefore, under the contract, and pursuant to the covenant of good faith and fair dealing, the Seller may not withdraw acceptance and must proceed with repairing the items the Buyer disapproved of.

Note: Similar to the Buyer's single notice requirement in the contract, if the Seller's BINSR response is signed and delivered to the Buyer, then the Seller's five day period ended upon delivery of the Seller's response to the Buyer.

NO SIGNATURE REQURED WHEN NO REPAIRS REQUESTED.

FACTS: Within the Inspection Period, the buyer delivered the Arizona REALTORS® Residential Buyer's Inspection Notice and Seller's Response ("BINSR") to the seller. The buyer marked the box under the first election: "Premises Accepted – No corrections requested. Buyer accepts the Premises in its present condition and no corrections or repairs are requested." The BINSR was sent to the seller. The buyer's agent is now insisting that the seller sign page 3 and return a copy to the buyer.

ISSUE: Does the seller have to sign page 3 if no repairs are requested?

ANSWER: No.

DISCUSSION: Because the buyer has made no request for repairs, the seller is not obligated to respond on the BINSR. However, if the buyer is asking for the seller's signature on the BINSR to "acknowledge receipt of a copy," then the seller may elect to mark through the seller response section and indicate "no repairs requested." Thereafter, the seller may elect to sign the BINSR.

ABOUT THE AUTHOR

Richard V. Mack

Richard V. Mack, a partner in the Phoenix office of Zelms Erlich & Lenkov, has been a lawyer since 1990. He is a State Bar of Arizona certified real estate specialist and AV Preeminent® by Martindale Hubbell. He has also been designated as a 2008–2012 and 2014–2021 Super Lawyer and is a member of Arizona's Finest Lawyers. Mr. Mack also serves on the Arizona State Bar Real Estate Advisory Commission, which oversees the Real Estate Specialization Program, serving as vice chair in 2021. Mr. Mack is admitted to practice in the state and federal courts of Arizona and before the 9th Circuit Court of Appeals. Mr. Mack graduated magna cum laude from Southwestern College in Winfield, Kansas with a BBA with an emphasis in economics, and received his JD from the University of Arizona.

WINDOW TO THE LAW:
TIPS TO PREVENT FLOORPLAN INFRINGEMENT CLAIMS

NATIONAL ASSOCIATION OF REALTORS®
WINDOW TO THE LAW

CLICK ARROW ABOVE TO WATCH THE VIDEO

CLICK ON THE IMAGE ABOVE TO VISIT FAIRHAVEN 2.0

Fairhaven 2.0 is NAR's updated online tool that gives you a 360° view of fair housing. The update to NAR's popular fairhaven simulation, Fairhaven 2.0, offers new eye-opening historical context, realistic scenarios, thought-provoking stories, award-winning videos, increased interactivity, and takeaways you can apply to your business. And it's a convenient way for REALTORS® to fullfill NAR's fair housing training requirement.

Floorplans can add value to listings. To ensure fair use and avoid copyright infringement, real estate pros should adopt these best practices.

Window to the Law
Window to the Law is a monthly video series focusing on a legal topic of interest. Not just for legal professionals, Window to the Law covers topics applicable to legal compliance for real estate professionals, brokerages, and REALTOR® associations.
To view videos visit: https://www.nar.realtor/videos/window-to-the-law

More Legal Information View NAR's Legal topics https://www.nar.realtor/legal

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