

Seller Advisory

When in doubt – disclose!



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

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

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

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

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

The SPDS is divided into six general sections:

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

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

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

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

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listing.zfx

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



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

SELLER:

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

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

MESSAGE TO THE BUYER:

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

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

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

OWNERSHIP AND PROPERTY

- As used herein, "Property" shall mean the real property and all fixtures and improvements thereon and appurtenances incidental thereto, plus fixtures and personal property described in the Contract.

3. PROPERTY ADDRESS: _____
(STREET ADDRESS) (CITY) (STATE) (ZIP)

4. Is the Property located in an unincorporated area of the county? Yes No If yes, and five or fewer parcels of land other than subdivided land are being transferred, the Seller must furnish the Buyer with a written Affidavit of Disclosure in the form required by law.

6. LEGAL OWNER(S) OF PROPERTY: _____ Date Purchased: _____

7. Is the legal owner(s) of the Property a foreign person or a non-resident alien pursuant to the Foreign Investment in Real Property Tax Act (FIRPTA)? Yes No If yes, consult a tax advisor; mandatory withholding may apply.

9. Is the property located in a community defined by the fair housing laws as housing for older persons? Yes No

10. Explain: _____

11. Approximate year built: _____. If Property was built prior to 1978, Seller must furnish the Buyer with a lead-based paint disclosure form.

12. NOTICE TO BUYER: IF THE PROPERTY IS IN A SUBDIVISION, A PUBLIC REPORT, WHICH CONTAINS A VARIETY OF INFORMATION ABOUT THE SUBDIVISION AT THE TIME THE SUBDIVISION WAS APPROVED, MAY BE AVAILABLE BY CONTACTING THE ARIZONA DEPARTMENT OF REAL ESTATE OR THE HOMEBUILDER. THE PUBLIC REPORT INFORMATION MAY BE OUTDATED.

16. The Property is currently: Owner-occupied Leased Estate Foreclosure Vacant If vacant, how long? _____

17. If a rental property, how long? _____ Expiration date of current lease: _____ (Attach a copy of the lease if available.)

18. If any refundable deposits or prepaid rents are being held, by whom and how much? Explain: _____

19. _____

20. YES NO
 Have you entered into any agreement to transfer your interest in the Property in any way, including rental renewals or options to purchase? Explain: _____

22. Are you aware if there are any association(s) governing this Property?
23. If yes, provide contact(s) information: Name: _____ Phone #: _____

24. If yes, are there any fees? How much? \$ _____ How often? _____

25. Are you aware of any proposed or existing association assessment(s)? Explain: _____

26. _____

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- YES NO
27. Are you aware of any pending or anticipated disputes or litigation regarding the Property or the association(s)?
28. Explain: _____
29. Are you aware of any of the following recorded against the Property? (Check all that apply):
30. Judgment liens Tax liens Other non-consensual liens
31. Explain: _____
32. Are you aware of any assessments affecting this Property? (Check all that apply):
33. Paving Sewer Water Electric Other _____
34. Explain: _____
35. Are you aware of any title issues affecting this Property? (Check all that apply):
36. Recorded easements Use restrictions Lot line disputes Encroachments
37. Unrecorded easements Use permits Other _____
38. Explain: _____
39. Are you aware of any public or private use paths or roadways on or across this Property?
40. Explain: _____
41. Are you aware of any problems with legal or physical access to the Property? Explain: _____
42. The road/street access to the Property is maintained by the County City Homeowners' Association Privately
43. If privately maintained, is there a recorded road maintenance agreement? Explain: _____
44. Are you aware of any violation(s) of any of the following? (Check all that apply):
45. Zoning Building Codes Utility Service Sanitary health regulations
46. Covenants, Conditions, Restrictions (CC&R's) Other _____ (Attach a copy of notice(s) of violation if available.)
47. Explain: _____
48. _____
49. Are you aware of any homeowner's insurance claims having been filed against the the Property?
50. Explain: _____

51. NOTICE TO BUYER: YOUR CLAIMS HISTORY, YOUR CREDIT REPORT, THE PROPERTY'S CLAIMS HISTORY
52. AND OTHER FACTORS MAY AFFECT THE INSURABILITY OF THE PROPERTY AND AT WHAT COST. UNDER
53. ARIZONA LAW, YOUR INSURANCE COMPANY MAY CANCEL YOUR HOMEOWNER'S INSURANCE WITHIN 60
54. DAYS AFTER THE EFFECTIVE DATE. CONTACT YOUR INSURANCE COMPANY.

BUILDING AND SAFETY INFORMATION

- YES NO
55. STRUCTURAL:
56. Are you aware of any past or present roof leaks? Explain: _____
57. _____
58. Are you aware of any other past or present roof problems? Explain: _____
59. _____
60. Are you aware of any roof repairs? Explain: _____
61. _____
62. Is there a roof warranty? (Attach a copy of warranty if available.)
63. If yes, is the roof warranty transferable? Cost to transfer _____
64. NOTICE TO BUYER: CONTACT A PROFESSIONAL TO VERIFY THE CONDITION OF THE ROOF.
65. Are you aware of any interior wall/ceiling/door/window/floor problems? Explain: _____
66. _____
67. Are you aware of any cracks or settling involving the foundation, exterior walls or slab? Explain: _____
68. _____
69. Are you aware of any chimney or fireplace problems, if applicable? Explain: _____
70. _____
71. Are you aware of any damage to any structure on the Property by any of the following? (Check all that apply):
72. Flood Fire Wind Expansive soil(s) Water Hail Other _____
73. Explain: _____

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74. YES NO WOOD INFESTATION

75. Are you aware of any of the following:

76. Past presence of termites or other wood destroying organisms on the Property?

77. Current presence of termites or other wood destroying organisms on the Property?

78. Past or present damage to the Property by termites or other wood destroying organisms?

79. Explain: _____

80. _____

81. Are you aware of past or present treatment of the Property for termites or other wood destroying organisms?

82. If yes, date last treatment was performed: _____

83. Name of treatment provider: _____

84. Is there a treatment warranty? (Attach a copy of warranty if available.)

85. If yes, is the treatment warranty transferrable?

86. NOTICE TO BUYER: CONTACT STATE OF ARIZONA STRUCTURAL PEST CONTROL COMMISSION

87. FOR PAST TERMITE REPORTS OR TREATMENT HISTORY.

88. HEATING & COOLING:

89. Heating: Type(s) _____

90. Cooling: Type(s) _____

91. Are you aware of any past or present problems with the heating or cooling system(s)?

92. Explain: _____

93. PLUMBING:

94. Are you aware of the type of water pipes, such as galvanized, copper, PVC, CPVC or polybutylene?

95. If yes, identify: _____

96. Are you aware of any past or present plumbing problems? Explain: _____

97. _____

98. Are you aware of any water pressure problems? Explain: _____

99. Type of water heater(s): Gas Electric Solar Approx. age(s): _____

100. Are you aware of any past or present water heater problems? Explain: _____

101. _____

102. Is there a landscape watering system? If yes, type: automatic timer manual both

103. If yes, are you aware of any past or present problems with the landscape watering system?

104. Explain: _____

105. Are there any water treatment systems? (Check all that apply):

106. water filtration reverse osmosis water softener Other _____

107. Is water treatment system(s) owned leased (Attach a copy of lease if available.)

108. Are you aware of any past or present problems with the water treatment system(s)?

109. Explain: _____

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

111. Does the Property contain any of the following? (Check all that apply):

112. Swimming pool Spa Hot tub Sauna Water feature

113. If yes, are either of the following heated? Swimming pool Spa If yes, type of heat: _____

114. Are you aware of any past or present problems relating to the swimming pool, spa, hot tub, sauna or water feature?

115. Explain: _____

116. ELECTRICAL AND OTHER RELATED SYSTEMS:

117. Are you aware of any past or present problems with the electrical system? Explain: _____

118. _____

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119. YES NO Is there a security system? If yes, is it (Check all that apply):
 120. Leased (Attach copy of lease if available) Owned Monitored Other _____
 121. Are you aware of any past or present problems with the security system? Explain: _____
 122. _____
 123. Does the Property contain any of the following systems or detectors? (Check all that apply):
 124. Smoke/fire detection Fire suppression (sprinklers) Carbon monoxide detector
 125. If yes, are you aware of any past or present problems with the above system? Explain: _____
 126. _____
127. MISCELLANEOUS:
 128. Are you aware of or have you observed any of the following on the Property? (Check all that apply):
 129. Scorpions Rabid animals Bee swarms Rodents Owls Reptiles Other: _____
 130. Explain: _____
 131. How often is the Property serviced or treated for pests, reptiles, insects or animals? _____
 132. Name of service provider: _____ Date of last service: _____
 133. Are you aware of any work done on the Property, such as building, plumbing, electrical or other improvements?
 134. (If no, skip to line 139.)
 135. Explain: _____
 136. Are you aware of any rooms added to the Property or converted to bedrooms?
 137. Were permits for the work required? Explain: _____
 138. If yes, were permits for the work obtained? Explain: _____
 139. Was the work performed by a person licensed to perform the work? Explain: _____
 140. Was approval for the work required by any association governing the property? Explain: _____
 141. If yes, was approval granted by the association? Explain: _____
 142. Was the work completed? Explain: _____
 143. Are there any security bars or other obstructions to door or window openings? Explain: _____
 144. Are you aware of any past or present problems with any built-in appliances? Explain: _____
 145. _____
 146. Are there any leased propane tanks, equipment or other systems on the Property? Explain: _____
 147. _____

UTILITIES

148. DOES THE PROPERTY CURRENTLY RECEIVE THE FOLLOWING SERVICES?
 YES NO PROVIDER
149. Electricity: _____
 150. Fuel: Natural gas Propane Oil _____
 151. Cable: _____
 152. Telephone: _____
 153. Garbage Collection: _____
 154. Fire: _____
 155. Irrigation: _____
 156. Water Source: Public Private water co. Private well Shared well Hauled water
 157. If water source is a private or shared well, complete and attach DOMESTIC WATER WELL/WATER USE ADDENDUM.
 158. If source is public, a private water company, or hauled water, Provider is: _____
 159. Are you aware of any past or present drinking water problems? Explain: _____
 160. _____
 161. Are there any alternate power systems serving the Property? If yes, indicate type (Check all that apply):
 162. Solar Wind Generator Other _____
 163. If yes, are you aware of any past or present problems with the alternate power system(s)? Explain: _____
 164. _____

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ENVIRONMENTAL INFORMATION

- YES NO
165. Are you aware of any past or present issues or problems with any of the following on the Property? (Check all that apply):
 166. Soil settlement/expansion Drainage/grade Erosion Dampness/moisture Other
 167. Explain: _____
168. Are you aware of any past or present issues or problems in close proximity to the Property related to any of
 169. the following? (Check all that apply):
 170. Soil settlement/expansion Drainage/grade Erosion Other _____
 171. Explain: _____
172. Are you aware if the Property is subject to any present or proposed effects of any of the following? (Check all that apply):
 173. Airport noise Traffic noise Rail line noise Neighborhood noise Landfill Toxic waste disposal
 174. Odors Nuisances Sand/gravel operations Other _____
 175. Explain: _____
176. Are you aware if the Property is located in the vicinity of an airport (military, public, or private)?
 177. Explain: _____
178. Are you aware of the presence of any of the following on the Property, past or present? (Check all that apply):
 179. Asbestos Radon gas Lead-based paint Pesticides Underground storage tanks Fuel/chemical storage
 180. Explain: _____
181. Are you aware if the Property is located within any of the following? (Check all that apply):
 182. Superfund/ WQARF/ CERCLA Wetlands area
183. Are you aware of any open mine shafts/tunnels or abandoned wells on the Property?
 184. If yes, describe location: _____
185. Are you aware if any portion of the Property is in a flood plain/way? Explain: _____
 186. _____
187. Are you aware of any portion of the Property ever having been flooded? Explain: _____
 188. _____
189. Are you aware of any water damage or water leaks of any kind on the Property? Explain: _____
 190. _____
191. Are you aware of any past or present mold growth on the Property? If yes, explain: _____
 192. _____

SEWER/WASTEWATER TREATMENT

- YES NO
193. Is the entire Property connected to a sewer? Explain: _____
194. If yes, has a professional verified the sewer connection? If yes, how and when: _____
195. NOTICE TO BUYER: CONTACT A PROFESSIONAL TO CONDUCT A SEWER VERIFICATION TEST.
196. Type of sewer: Public Private Planned and approved sewer system, but not connected
197. Name of Provider _____
198. Are you aware of any past or present problems with the sewer? Explain: _____
199. Is the Property served by an On-Site Wastewater Treatment Facility? (If no, skip to line 205.)
200. If yes, the Facility is: Conventional septic system Alternative system; type: _____
201. If the Facility is an alternative system, is it currently being serviced under a maintenance contract?
202. If yes, name of contractor: _____ Phone #: _____
203. Approximate year Facility installed: _____ (Attach copy of permit if available.)
204. Are you aware of any repairs or alterations made to this Facility since original installation?
 205. Explain: _____
 206. _____
207. Approximate date of last Facility inspection and/or pumping of septic tank: _____

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YES NO

208. Are you aware of any past or present problems with the Facility? Explain: _____
209. _____
210. NOTICE TO SELLER AND BUYER: THE ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY REQUIRES A
211. PRE-TRANSFER INSPECTION OF ON-SITE WASTEWATER TREATMENT FACILITIES ON RE-SALE PROPERTIES.

OTHER CONDITIONS AND FACTORS

212. What other material (important) information are you aware of concerning the Property that might affect the buyer's decision-making
213. process, the value of the Property, or its use? Explain: _____
214. _____
215. _____
216. _____
217. _____
218. _____

ADDITIONAL EXPLANATIONS

219. _____
220. _____
221. _____
222. _____
223. _____
224. _____
225. _____
226. _____
227. _____
228. _____
229. _____
230. _____
231. _____

232. SELLER CERTIFICATION: Seller certifies that the information contained herein is true and complete to the best of Seller's
233. knowledge as of the date signed. Seller agrees that any changes in the information contained herein will be disclosed in writing by
234. Seller to Buyer prior to Close of Escrow, including any information that may be revealed by subsequent inspections.

235. _____
SELLER MO/DA/YR SELLER MO/DA/YR

236. Reviewed and updated: Initials: _____ / _____
SELLER SELLER MO/DA/YR

237. BUYER'S ACKNOWLEDGEMENT: Buyer acknowledges that the information contained herein is based only on the Seller's actual
238. knowledge and is not a warranty of any kind. Buyer acknowledges Buyer's obligation to investigate any material (important) facts in
239. regard to the Property. Buyer is encouraged to obtain Property inspections by professional independent third parties and to
240. consider obtaining a home warranty protection plan.

241. NOTICE: Buyer acknowledges that by law, Sellers, Lessors and Brokers are not obligated to disclose that the Property is or has been:
242. (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
243. to HIV, diagnosed as having AIDS or any other disease not known to be transmitted through common occupancy of real estate; or (3)
244. located in the vicinity of a sex offender.

245. By signing below, Buyer acknowledges receipt only of this SPDS. If Buyer reasonably disapproves of any items provided
246. herein, Buyer shall deliver to Seller written notice of the items disapproved as provided in the Contract.

247. _____
BUYER MO/DA/YR BUYER MO/DA/YR