

# ARIZONA REALTOR<sup>®</sup>

## M A G A Z I N E

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Publication Information: [www.aaronline.com/AZR/PubInfo.pdf](http://www.aaronline.com/AZR/PubInfo.pdf)  
Questions/Comments: [editor@aaronline.com](mailto:editor@aaronline.com)



# FRUSTRATED BY APPRAISALS? HERE ARE FOUR THINGS YOU CAN DO

## Understand the Challenges, Demand Appraiser Competence, Combat Bad Appraisals & Report Bad Actors

While announcing the October 2011 existing home sales numbers, NAR Chief Economist Lawrence Yun explained that contract failures continue to hamper a housing recovery. One of the biggest causes for failure in today's market, he noted, are appraisals coming in below the negotiated price. Sound familiar?

Listen to REALTORS® talk about appraisals lately and you're likely to hear words like "spoiler" and "deal breaker." Agents across Arizona are reporting concerns about the competency of the appraisers sent to evaluate properties and the accuracy of the appraisals delivered. So what can be done? We're glad you asked.

### UNDERSTAND THE CHALLENGES

Think it's hard being a REALTOR® in today's market? It's no picnic for appraisers either. "The state of our union is bleak," said [Frank Gregoire](#), chairman of NAR's Appraisal Committee, during a [session on appraisals](#) at the NAR convention in Anaheim in November. "It's dismal."

<http://www.linkedin.com/in/frankgregoire>

<http://www.playbacknar.com/player/index/index/cid/9840/>

A brief background: Inflated appraisals contributed to the housing bubble. The Home Valuation Code of Conduct (May 2009) and the Dodd-Frank Act (July 2010), which supplanted HVCC, sought to combat inflated appraisals by erecting a firewall between appraisers and loan originators. As a result, appraisal management companies (AMCs) have proliferated. "We needed a

firewall," notes [Julie Friess](#), SRA, the president of the Coalition of Arizona Appraisers and a Sedona-area appraiser. "But we didn't need a firewall that was unregulated, unlicensed and untrained. That's no better than what we had before."

<http://www.linkedin.com/pub/julie-friess-sra/10/263/bb4>

"An unintended consequence [of the new regulations] is that AMCs (some, not all) tend to award assignments to appraisers who provide services at the lowest fee and in a minimum amount of time," Gregoire reports. "With very few exceptions, quality doesn't enter into the equation. As a result, you have an appraiser who is willing to work cheaply and fast, and the appraiser doesn't, in most cases, have an awful lot of incentive to provide a quality product."

So the book of business appraisers developed over years of service has been rendered irrelevant. They face increased regulation at the federal level. They are under pressure to perform appraisals for less money in less time. And they also face higher liability and rising certification standards. The result?

"We see a huge drop in appraisers staying in the appraisal industry," reports Friess. "This has become a real concern. Young appraisers are not joining the industry, and we are aging quickly."

But don't give up hope, REALTORS®! "Just like there are good agents and bad agents, there are good AMCs and



### A Note on Distressed Comps

Should appraisers be allowed to use distressed properties as comps? The short answer, according to Friess, is that it depends.

Short sales are generally not considered to be arms-length transactions by appraisers because the agreed upon sales price has been influenced by factors beyond market value. Appraisers should try to avoid them, says Friess, but if there are no other sales to use, short sales can be included if appropriately identified. "Appraisers should put little or no emphasis on short sales unless they have studied the sales, discussed them at length

with the parties involved and determined if they were in fact arms-length," she reports.

Friess also says that REOs may be appropriate as comps, depending on the neighborhood. "There are markets where the entire market is distressed," says Friess. "In other markets, there is a clear distinction between REOs and seller-owned properties."

"The question is: Are the properties truly comparable or not?" says Friess. "This is where discernment is required. It's about the experience, knowledge and competency of the appraiser."



good appraisers out there,” Friess says. “It’s always the negative ones that make everyone else look bad while the others are trying to do good things and working hard.”

## DEMAND APPRAISER COMPETENCE

Your first goal should be to increase the likelihood of having a geographically competent appraiser evaluate the property in question. In the appraisal session in Anaheim, [Anna Ruotolo](#) with RPM Mortgage, a privately held mortgage bank in Walnut Creek, CA, advised: “Do not let an appraiser go out to your property without speaking to them first.” HVCC and Dodd-Frank have created some confusion in the market about what communications are allowed between agents and appraisers. Ruotolo asserts that as long as you are not being coercive or intimidating, you can talk to the appraiser about anything.

<http://www.linkedin.com/in/annaruotolo>

Here are five questions Ruotolo encourages agents to ask:

- How far is their office from the subject property?
- Do they have MLS data?
- Are they familiar with the area?
- How frequently are they in the subject market area?
- When was the last time they were in the subject’s area?

“I have people ask me these types of questions all the time, and I don’t have a problem answering,” agrees Friess. Look at the totality of the answers before deciding how to proceed. Just because an appraiser’s office is more than 15 miles from the property does not mean they do not have geographic competence. “Competence is not about proximity,” notes Gregoire. “Competence is determined by knowledge of that market and property type.”

Friess related the story of an appraiser who got out of his car at a home in Clarkdale and said to the agent, ‘Wow, it’s really beautiful up here. I’ve never been here before.’ Clearly, that’s not supposed to happen. “Here in Sedona, I get blast emails from management companies about properties in Snowflake,” says Friess. “I’ve never even been there! I shouldn’t be offered appraisals in that area.”

“If you can show that the appraisers do not have geographic competence, you can deny them access,” insists Ruotolo. “A listing or selling agent can deny access. It’s your right and obligation.”

## COMBAT BAD APPRAISALS

Ruotolo advises that you prepare three items before the appraisal occurs:

- Gather a solid list of comps. They should be similar to the subject in location (within a mile radius), not more than 15% larger or smaller and sold within 90 days.
- Put together a one-sheet detailing predominant features in the home. This should not include items appraisers consider irrelevant, such as fresh paint, but can include a view or significant upgrades.
- Document any discrepancies with the assessor’s data.

You can send these items to the appraiser in advance or present them when you meet the appraiser at the property. On site, don’t be afraid to ask for picture ID to ensure that the appraiser is the one you were expecting, counsels Friess. “People have been known to send trainees... cutting corners because of low fees.” Show the appraiser around the home and point out the features on your one-sheet. But remember your audience. Don’t speak to an appraiser as you would



### WEBINAR: PRODUCTIVE ENGAGEMENT WITH APPRAISERS

<http://go-to.realtor.org/r/5CRT6W/GE34S/DWXA51/TR95G/LT8DI/7M/h>

Thursday, January 12 | 3pm ET

*REALTOR® Magazine* hosts a talk with Anna Ruotolo of RPM Mortgage in Walnut Creek, CA about what questions to ask of appraisers, what kind of information practitioners should give them, and what to do if a practitioner believes an appraisal is inaccurate in a webinar about today’s uncertain appraisal climate.

### 12 QUESTIONS TO ASK BEFORE LETTING THE APPRAISER IN THE DOOR

[http://www.americanappraisals.com/12\\_questions\\_to\\_ask\\_the\\_appraiser.htm](http://www.americanappraisals.com/12_questions_to_ask_the_appraiser.htm)

Appraisers and real estate educators Richard Hagar, SRA and P.E. (Pat) Turner, Jr., SRA & SRPA have put together this useful list of a dozen questions you should consider asking.

### INDEMNIFICATION WOES

<http://realtormag.realtor.org/law-and-ethics/law/article/2011/11/indemnification-woes>

One-sided clauses may increase appraiser’s liability, potentially hurting real estate sales.

*REALTOR® Magazine* – November 2011

## Related Resources



speak to a potential buyer. Appraisers respond to facts and figures, not emotions.

So, let's say you've done your best. You were able to get a geographically competent appraiser. You presented your three reference items. And yet the appraisal that results is nowhere near what you or your clients were expecting. First, review the appraisal for gross errors, counsels Ruotolo. Absent those, there are two likely reasons for the surprising appraisal value: either you are wrong or the appraiser is.

"Recognize that if you have an issue with an appraiser, the first thing you are asking the appraiser to admit is that he was wrong. Are you good at admitting you're wrong?" asks Gregoire. "You have to find a tactful, logical, meaningful way to get the appraiser to admit, at least to himself, that he may have made an error. And the way you do that is usually by providing the appraiser with information that wasn't available to him or her. You should say, 'I know you didn't have access to this, but...'"

If you decide to fight the appraisal with the AMC, remember that the folks who answer the phone are not likely to be appraisers. Present your case accordingly, advises Ruotolo. "With some AMCs, you'll get lost in the process, but stay the course and battle for your clients."

## REPORT BAD ACTORS

**Appraisers.** If you suspect that an appraiser is violating Uniform Standards of Professional Appraisal Practice (USPAP), you are required by the Dodd-Frank Act to turn the appraiser in to the Arizona Board of Appraisal or the FBI.

<http://www.uspap.org/>

<http://www.appraisal.state.az.us/>

[http://www.fbi.gov/about-us/investigate/white\\_collar/mortgage-fraud/mortgage\\_fraud](http://www.fbi.gov/about-us/investigate/white_collar/mortgage-fraud/mortgage_fraud)

**AMCs.** The Interagency Appraisal and Evaluation Guidelines emphasize that institutions should select appraisers that are "competent, independent and [have] the relevant experience and knowledge for the market, location and type of real property being valued." If you feel that an AMC is violating these guidelines, you can report them to the Consumer Financial Protection Bureau, the Office of the Comptroller of the Currency, the Federal Reserve Board and/or the Arizona Attorney General. 🏠

<http://www.occ.gov/news-issuances/federal-register/75fr77450.pdf>

<http://www.consumerfinance.gov/>

<http://www.occ.gov/>

<http://www.federalreserve.gov/>

<http://www.azag.gov/>

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*This article was based on an AAR interview with Julie Friess and on the "Appraisals: What You Absolutely Need to Know" session at the NAR Conference in Anaheim in November 2011.*



### BPOR COURSE: THE AGENT'S ROLE IN PROPERTY VALUATION

Wednesday, January 18 | 8:30am – 5:00pm

Western Pinal Board of REALTORS®

\$79 | [Register Online](#) | [Class Flyer](#)

<http://www.regonline.com/bpocg>

<http://www.aaronline.com/education/class-flyers/120118-bpo-wpar.pdf>

This one-day course from NAR provides students with the resources and knowledge to reduce their risk and increase their opportunities. Students will learn about the multiple uses of BPOs, how to evaluate and minimize the risk of the valuation process, ways to identify and use effective tools, and methods for filtering and selecting comparables in order to create professional and accurate BPOs. This class also offers you the option of earning NAR's new certification, BPOR (BPO Resource).

CE: 6-legal issues

Instructor: Frank Dickens

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### iCRMS: SHORT SALES, REOS & FORECLOSURES

Friday, January 27 | 9:00am – 4:15pm

Phoenix Association of REALTORS®

\$99 by January 14 | [Register Online](#) | [Class Flyer](#)

<http://www.regonline.com/crmsphx12012>

<http://www.aaronline.com/education/class-flyers/120127-sscrrms-par.pdf>

It is important to understand the risks inherent in working with short sale and foreclosure transactions. By familiarizing yourself with the problems that can and do occur in these transactions, you can develop strategies to reduce risks for the clients, salespersons and brokers involved.

Instructor: Mary Frances Coleman (Thompson Law, PLC)

C/E: 3-contract law, 3-legal

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# ARIZONA'S FIVE REGIONS TAKE STOCK OF 2012

## Short Sales Aplenty but Also "Glimmers of Hope" in the New Year

AAR asked the association's five regional vice presidents to report on the state of their market areas going into 2012. The regions are beginning to see distinct signs of promise, but distressed properties are expected to continue to play a large role.

### REGION 1

**Bullhead City/Mohave Valley, Kingman/Golden Valley, Lake Havasu, La Paz, Yuma**

With sales reports in for November, Region 1 sales are generally on par with 2010 and in some cases have shown an increase over last year's number of units sold. The number of REOs on the market has declined in general, but pricing is still under pressure. Mohave County is encouraged by two major employers coming into the area, and we feel that the influx of new jobs to the area will help boost property sales in the coming year.

Kingman/Golden Valley, Lake Havasu and Bullhead City will continue to collaborate in two major areas in 2012. First, we will provide our members with GRI education opportunities spread among the three associations, allowing Mohave and La Paz agents to receive training in one year without leaving the area. Second, the Mohave County Regional REALTOR® Government Affairs Council is in full swing and ready to provide information to our members on candidates and issues in the upcoming elections.

#### **Kathleen Murray**

AAR Regional Vice President – Region 1  
Realty Executives/Mohave (Kingman)

### The Role of the RVP

Arizona's REALTOR® community is organized into five regions. These regions are represented on AAR's executive committee by five regional vice presidents (RVPs) elected to two-year terms. The RVPs are responsible for maintaining effective communication and cooperation between their region's local associations and the state association.

RVPs also facilitate twice-yearly regional caucuses—at Winter Conference in Prescott in the spring and at Leadership Conference in Phoenix in the fall. If you've never attended your regional caucus, here are [three reasons](http://blog.aaronline.com/2010/03/three-reasons-to-attend-your-regional-caucus-at-winter-conference/) you should consider it.

<http://blog.aaronline.com/2010/03/three-reasons-to-attend-your-regional-caucus-at-winter-conference/>

### REGION 2

**Phoenix, West Maricopa County Regional**

Region 2 is proud of our members and our region. We have adapted and adjusted to the market changes this year. Short sales have become the norm, while REO inventory has been slowly dropping. Our foreclosure numbers are down overall, and we are seeing a large number of flips in every price range. The reduction in inventory is leading to multiple offers once again, even in the short sale category. Industry wide, the opinion seems to be that Region 2 has hit bottom and is improving slowly.

The area of property management has been very brisk, due to both the large amount of investor-owned rental properties and the rental demand by the many people who need a place to live due to either foreclosures or short sales of their existing properties.

Appraisal issues have continued, along with stricter lender guidelines, leading to increased problems for buyers in getting their transactions closed. However, interest rates are still incredibly low, encouraging buyers to enter the market.

PAR and WeMAR have both continued to support their REALTOR® members with great educational opportunities and up-to-date national, state and local real estate information. We are all excited regarding the ARBI project through AAR, and we wish our 2012 AAR President Holly Mabery an exciting and productive year.

#### **Jan Leighton, GRI**

AAR Regional Vice President – Region 2  
JD Campbell Realty, Inc. (Peoria)

### REGION 3

**Northern Arizona, Sedona/Verde Valley, Prescott Area, Central Arizona, White Mountain**

Region 3 is the "destination areas" of Arizona enjoying beautiful views, recreation, trees and red rocks. We have fought hard to stay afloat during this real estate crisis, and it looks like this bumpy ride may be settling down and looking up.

White Mountains – Commercial real estate is stagnant. Inventory is holding steady with no fall in prices. The majority of sales still seem to be distressed properties.



Central Arizona – This area is entering a slow period, but sales are up 10% over last year.

Flagstaff – Total sales are expected to end the year at 10% over 2010. The median price is \$185,750 with an average 104 days on market. 31% of sales are distressed properties. Quality inventory is low; currently, they have around 860 homes on the market compared to a normal 1,200. With this drop in inventory, Flagstaff expects to see a stabilization in the middle of 2012 and begin the road to recovery for their area.

Sedona – This area is experiencing shrinking inventory, multiple offers, selling at over list price and more demand.

Prescott – Glimmers of hope are appearing. Inventory is down significantly, prices are low and properties below median price are selling quickly and with multiple offers. Banks are working harder to complete short sales.

To recap, our region is mostly retirement, second home and recreation. Overall, sales are improving and the median price homes are in demand and selling. Higher end homes in this region are sleepers. We may be in the “new normal.” With prices stabilizing, banks cooperating and historically low interest rates, this is a great time to buy and to be in real estate.

**Paula A. Smith, ABR, CRS, GRI, e-PRO**

AAR Regional Vice President – Region 3  
RE/MAX Mountain Properties (Prescott)

## REGION 4

### Scottsdale Area, Southeast Valley Regional, Western Pinal

What will this year of 2012 hold for us? As REALTORS®, change is probably the only certainty. The Mayan calendar ends this year, which could eliminate the need for any planning... But that's not much fun! What we do *is* fun. Never a dull moment navigating the real estate maze!

Throughout our region, 2011 showed a lot of change as inventory declined, the number of foreclosures went down and successful short sales began closing in record numbers. There were actually a few traditional listings happening in our area, though prices remain lower than most original sales prices, keeping everyone stressed. Of course, people need to live somewhere, so if you are comfortable in your home and can sustain the payment, then the best advice is to sit tight. Not what a REALTOR® wants to hear!

I anticipate we will see more and more regular sellers this year. The huge numbers of homes built during the “boom” are finally old enough to allow the owners to sell and at least not lose all of their equity. The newspapers still show many foreclosures every day. They are not showing up as active inventory at the same pace as in 2010 and at the start of 2011, but the fact that they exist is an issue that we'll need to deal with, so I expect the REO market to stay strong through 2012.

Pinal County is on the verge of some serious new growth—positive changes for the real estate community, for sure. Union Pacific railroad has added another set of tracks through all of Pinal County and is still trying to finalize approval for a switching station in the Red Rock area. A project called Phoenix Mart (named for the bird, not the city) is slated for this year, adding over 3,000 jobs. And the county seat of Florence has a new copper mine being developed, promising another 5,000 jobs. This mine project is environmentally friendly and has received some strong local support. Please take a look.

<http://www.phoenixmart.com/>

<http://www.copper.org/environment/casestudies/cottonfield.html>

This is an election year that will certainly see change: donate to RAPAC! Work hard and make a difference.

**Susan Abdallah, GRI**

AAR Regional Vice President – Region 4  
CG Cactus Realty LLC (Casa Grande)

## REGION 5

### Tucson, Southeast Arizona, Douglas, Graham/Greenlee, Green Valley/Sahuarita, Santa Cruz County

Region 5 is very unique because each association's market area is different from another.

Tucson is a metropolitan area with one of the largest associations in the state and usually experiences market conditions ahead of the rest of the region. Green Valley is predominantly a retirement area. Santa Cruz is a newly developed rural area near the border. Sierra Vista is characterized by a large military population. Last but not least, Douglas is a small community near the border with one of the smallest associations in the state.

Even with our diversity, we are experiencing the same market conditions and forecast for next year. Real estate in southern Arizona is showing signs of recovery; however, real estate sales are tied to jobs, so unemployment is a key factor. Overall it appears that sales and prices are stabilizing. A higher percentage of buyers are coming in with cash or are very well qualified. Buyer confidence has increased. The majority of the homes selling are in the lower price ranges. We definitely saw an increase in short sales and REOs in 2011 and expect them to continue to play a significant role.

With interest rates at a 50-year low, plentiful inventory and sellers offering to pay closing costs, it is the perfect time to buy. We believe next year will be the comeback, turnaround year for us. 🏠

**Donna R. Beedy**

AAR Regional Vice President – Region 5  
ConnectRealty.com (Rio Rico)

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# MEDIATION GIVES YOU A SAY

## Crafting Win-Win Solutions for Real Estate Disputes

Negotiation is part of the job description for real estate agents, who are often proud of their ability to strike a deal. Consequently, when an issue in a transaction develops into a full-fledged dispute, REALTORS® are often reluctant to turn to a third party for help. If I can't get to a solution, the thinking goes, there just isn't one.

But when you are personally involved in a dispute, you are less able to see the way to a solution. "Where emotion is high, logic is low," says Bruna Pedrini, a mediation trainer and attorney with Fennemore Craig in Phoenix. Even highly trained mediators have trouble using their skills during a family disagreement.

If you find yourself embroiled in a dispute and consensus seems impossible, AAR's mediation programs can help.

### WHAT IS MEDIATION?

Mediation gives parties involved in a dispute the opportunity to sit down together with a neutral third-party mediator and attempt to find a mutually agreeable solution. Mediation is a voluntary, confidential process. Its aim is to provide a win-win agreement in far less time and with less resources expended than in an ethics hearing, arbitration or court case. If mediation fails, the other options are still available.

### WHY MEDIATE?

"During mediation, you have a say in the outcome," explains Evan Fuchs, ABR, CRS, GRI, an AAR mediator and the designated broker at Bullhead Laughlin Realty in Bullhead City. "You may not get exactly what you want, but you can reach a win-win deal that'll stick." In an arbitration, on the other hand, the hearing panel makes the final decision in favor of one party.

"With panels, you're giving control of the situation to a bunch of strangers," agrees Carol Anne Warren, ABR, GRI, an AAR mediator and associate broker with Arizona Adobe Group Realty in Cottonwood. "With mediation, you're in control."

Mediation is a strong alternative to legal action as well. "Mediation keeps you out of the courtroom and saves you money," says Fuchs.

"If you can't successfully mediate and move to a jurisdiction outside of the association, you are allowing lawyers and judges who never really quite understand what we do and how we do it to make a lot of money and waste a lot of time," asserts Gary Best, ABR, CCIM, an AAR mediator with Keller Williams Southern Arizona in Tucson.



Join us at our 2012 workshop where we'll put professional standards success within reach!

Discussions at this year's workshop will cover changes to the NAR Code of Ethics, issues around procuring cause and more.

This program is free for AAR Grievance Committee and Professional Standards Committee members, who will be required to take an online exam on the Code of Ethics. AAR ombudsmen and mediators are invited to attend for \$37.50. Members at large may attend for \$75.00.

**Wednesday, January 18, 2012**  
**9:00am – 3:00pm**  
**Black Canyon Conference Center**  
**Register Online | Event Flyer**

<http://www.regonline.com/psw2012>

<http://www.aaronline.com/professional-standards/professional-standards-workshop-2012.pdf>

**C/E: 3 hours**

## PROFESSIONAL STANDARDS

WORKSHOP 2012



JAN. 18



# Mediation Testimonials

Mediation evaluations are requested from the parties to every mediation that is held through AAR. Here are a few of the evaluation comments regarding the AAR mediators and the mediation process:

*“The mediator did an excellent job handling the mediation and helping [us] resolve the issues between both parties.”*

*“I received a very nice thank you from the seller. She was pleased that through mediation, we handled this so professionally.”*

*“Extremely effective and professional! The mediator did an excellent job mediating the dispute. My client was equally impressed. Thanks so much!”*

*“The mediation accomplished what was needed to satisfy my complaint.”*

*“The mediator really did a good job, handled everything exceptionally well. We paid but was worth the time and money to resolve the matter. Thank you.”*

*“I realize the mediator had a tough time getting an agreement...but it did resolve!”*

*“[The mediator] was great. Very neutral and gave advice on how to avoid future complaints.”*

“AAR mediations have a very high success rate,” reports AAR Risk Management Specialist Jan Steward. “Through the third quarter of 2011, our success rate was 83.3%.” Of course, if mediation fails, the other options for resolving the dispute are still available to you. In fact, material from the mediation is confidential, so it will not affect a future arbitration or court case.

## WHAT ARE THE BARRIERS TO MEDIATION?

A big barrier to mediation is stubbornness, says Fuchs. “You have to get the parties involved to understand that there might be another option besides their way.” The reluctance can also come from an unwillingness to admit error or a desire to “nail” the other guy. “Mediation sounds like it won’t be quite so painful,” says Warren with a smile.

“Occasionally one of the parties is so passionate and so single-minded in their desire to win and dominate at any cost that they prevent the mediation from succeeding,” notes Best, who remembers calling off a mediation to the surprise of the intractable complainant. If one or both parties won’t compromise, the mediation won’t succeed.

## WHO ARE THE MEDIATORS?

In AAR ethics and business dispute mediations, the mediators are REALTOR® volunteers who are trained to listen, encourage open communication between the

parties and help them resolve their issues. Different mediators have different styles, but they all have the same goal: a resolution to the dispute.

Warren nurtures the parties and the process through telephone calls the day before the mediation. “I handle any questions or concerns they may have about the process beforehand,” she explains. “I calm them down and let them know that it’s not going to get adversarial. No one is going to yell. They walk in knowing it’s not going to be ugly.”

George Watrous, ABR, CRB, GRI, is an AAR mediator and the managing broker at Keller Williams Lifestyle Realty in Phoenix. His deep voice and commanding presence serve him well in the mediation room right from the start. “I put the complainant and respondent next to each other across the table from me,” he explains. “I throw down first the manual [NAR’s Code of Ethics & Arbitration Manual] and then the complaint and explain that neither apply today. The rules are there are no rules, except that anything they learn cannot be recorded or used in any other proceeding.”

Parties to mediations in which Best has participated comment on the calming influence he brings to the process. “I don’t allow issues to ruffle me,” he says. “In the structured mediation environment, I help people understand each other and listen without interrupting. I believe most people are interested in doing the right thing.”



## AAR Volunteer Mediators

AAR would like to thank the volunteers who served as mediators for AAR in 2011. We appreciate their contribution to our industry and their dedication to professional standards.

Gary Best

Frank Dickens

Tom Fannin

Bill Farretta

Charles Fraas

Lucille Fraas

Evan Fuchs

Mary Lee Greason

Dick Krause

Marge Lindsay

Carol Pincario

Tina Robbins

Ron Roberts

Carol Anne Warren

George Watrous

Thomas Weddingfeld





Because the mediators are active REALTORS® who often have experience in other professional standards programs, they can provide additional perspective to the agents involved. When negotiations break down, the parties separate and the mediators employ shuttle diplomacy. This is often an opportunity for a mediator to explain to the two parties what the options are beyond mediation. "I explain to the agents that I've been on hearing panels and know what can happen," says Watrous. "I can't tell them what to do, but sometimes I can nudge them into the middle."

"A couple of times we've gone into caucus and I've told the agent, you need to make this stop here because I'm seeing the possibility of a Fair Housing violation or things that could affect your license," Warren reports. "Sometimes the agent doesn't even know how bad this could get if it isn't stopped right there."

## CHOOSE MEDIATION

"Our industry is based on cooperation and agents working well together," notes Fuchs. "Every bridge you burn reduces options for your client and your business." Mediation allows you a low-risk way to resolve differences.

"If you are party to a complaint and have received a request from AAR to mediate, the question should not be 'Will you agree to mediation?' but 'How quickly can the mediation be scheduled to manage the dispute?'" asserts Steward.

"I love when people grow up and act like adults," says Warren. "And you can quote me on that."

## LEARN MORE ABOUT AAR MEDIATION

AAR's website provides information on mediation for [ethics disputes](#) or for [business disputes](#) (involving money). Separate request forms are available for the two types: [ethics mediation request form](#) or [business dispute mediation request form](#).

<http://www.aaronline.com/documents/EthicsMediationBrochure.pdf>

<http://www.aaronline.com/documents/ArbMediationBrochure.pdf>

<http://www.aaronline.com/documents/EthicsMediationBrochure.pdf>

<http://www.aaronline.com/Disputes/Mediation.aspx>

In addition, AAR coordinates a [buyer-seller mediation program](#). Since 1992, the AAR contract has contractually obligated the buyer and the seller to mediate any dispute or claim arising out of or relating to the contract: "*Buyer and Seller agree to mediate any dispute or claim arising out of or relating to the Contract in accordance with the REALTORS® Dispute Resolution System, or as otherwise agreed. All mediation costs shall be paid equally by the parties.*" (Contract, lines 285-288) 🏠

<http://www.aaronline.com/Disputes/BuyerSeller.aspx>

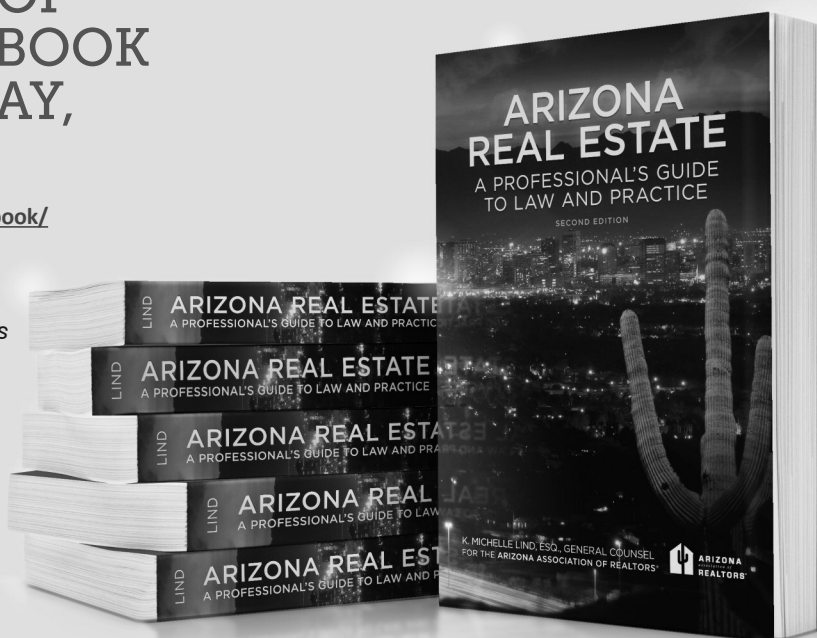
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## SECOND EDITION OF MICHELLE LIND'S BOOK AVAILABLE TUESDAY, JANUARY 3

Order Online: <http://www.aaronline.com/azre-book/>

Get answers to common real estate questions at your fingertips! The second edition of *Arizona Real Estate: A Professional's Guide to Law & Practice* by AAR General Counsel K. Michelle Lind is available for purchase online starting Tuesday, January 3. The book is available to AAR members for just \$21.99 (\$34.00 for non-members). For the first time, the book is also available in eBook format for just \$9.99.

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# MAKING THE MOST OF EMAIL AND MICROSOFT OUTLOOK

## Take Advantage of Resources at Your Disposal & Maximize Marketing Dollars

BY MARK PORTER

There are so many tools promoted to us as REALTORS® every day, and it can be tough deciding where to invest your money and get the most bang for your buck. I really like Microsoft Outlook. When used effectively, it can be an all-in-one tool for contact management, email marketing and action plans—all with little investment.

With 90% of agents utilizing email as the primary form of communication, it remains one of the leading ways for you to define your brand. Consequently, it's important to ask yourself, "Whose website are you advertising with your email address?" Hopefully, you can say your own website. But the reality is a large number of agents are actually utilizing third-party email addresses provided by Google, Yahoo, MSN and AOL. That's great advertising for these companies, but it's actually hindering your own marketing efforts. Not only does it appear unprofessional to your customers, but it's also a missed opportunity for free advertising and consistent branding. By purchasing your own personalized domain name and forwarding all of your old email addresses to your new account, you will create consistent branding that ensures your customers always have the ability to reach you regardless of franchise changes or moves.

### Why Email?

Marketers choose email for a variety of reasons. Here are three:

- **It's more measurable.** Opens and clicks can be tracked, and emails can be split-tested for effectiveness.
- **Consumers prefer it.** Emails are the preferred method of commercial communication by 74% of all online adults.
- **It gets better response rates.** The average direct mail campaign gets a 1-2% response rate, while the average email marketing campaign gets a 20-30% open rate.

View an [infographic](#) with more details about the state of email marketing.

<http://img.constantcontact.com/mktg/marketing/infographics/email-marketing/emailmarketing.png>

Source: Constant Contact

In fact, I recommend creating a few domain names: one that is your own name and promotes your branding efforts (e.g. MarkPorterREALTOR.com) and another domain that is search-engine friendly (e.g. MarkSellsDallasRealEstate.com). The first address makes it easy for customers who are already familiar with you to find you, whereas the second will help attract new customers who may be using the internet to find city real estate information. You still only want to have one website and one primary email address under the domain that promotes your branding. The second search-engine friendly domain will automatically re-direct to your primary address.

Another factor to keep in mind when using third-party email addresses is storage limitations. It is well accepted that we must keep records for seven years, which can become impossible to do when using webmail services with limited data storage capabilities. Using Outlook with larger storage capabilities and easier archiving features is a great solution.

Statistics show that the largest number of referrals come from the people you already know (e.g. friends, family and neighbors). Hence, the reason contact management is so critical for your business. The contact management solutions offered by Outlook are extremely efficient.

Features include the ability to:

- Categorize your contacts
- Search and filter contacts
- Import and export contact lists
- Share contacts with v-cards
- Synchronize your contacts (and your email messages) with your mobile device

Beyond that, managing messages for specific contacts or groups, scheduling meetings with your contacts, and creating tasks and to-do items for your contacts will help keep you organized and efficient. Managing your contacts with such versatility from the very place you handle the majority of your communications really makes Outlook the ultimate productivity tool for your business.



Once you create the organization and structure with your contacts, it is easy to implement a solid email marketing campaign directly from Outlook. One of the most powerful tools offered by Microsoft Outlook is the ability to send personalized mass emails to specific contact categories. This offers the flexibility to create specific messages for past clients and completely different messages for potential or existing clients. Furthermore, Microsoft offers thousands of free templates, including real-estate-specific templates, for newsletters, flyers, brochures and more, all of which can be customized for your business and sent out as your mass email. Using the tools offered by Microsoft makes it easy to create an email marketing campaign that will provide consistent advertising and branding for your business.

You can take Microsoft Outlook to an even higher level of efficiency for your business with real-estate-specific add-ons like [www.RealESeller.com](http://www.RealESeller.com). These add-ons are designed specifically for real estate businesses, so you'll have tools such as the ability to develop and apply action plans for all types of checklists (listing to accepted offer, accepted offer to close, FSBOs, expireds, waiting to buy, waiting to sell). There are also tools to help you manage your email campaigns, delegate assignments to

your assistant or staff, create activity reports and more. A great advantage to these types of add-ons is once you purchase the software, there are no monthly fees. It's a one-time investment that will go a long way in your everyday marketing efforts and peace of mind.

Microsoft Outlook has the potential to be a powerful tool for your email, sales and overall marketing efforts. Invest the time and learn to use Microsoft Outlook to its fullest potential, and you'll enjoy a great return for your time and money. 🏠

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#### ABOUT THE AUTHOR



**Mark Porter** has been a real estate agent, investor, broker, trainer, author, keynote speaker and professional coach for more than two decades. He has made a career out of helping agents develop their businesses by learning to manage shifting markets to better serve their clients. Porter has been a featured speaker for numerous industry organizations and conventions, including Hewlett Packard, Kodak, the National Association of REALTORS® and the Council of Residential Specialists. He and his wife Linda live in Dallas, Texas, with their son Collin and daughter Abby.

<http://www.markporterlive.com/>

# 5 CRITICAL STEPS FOR YOUR BUSINESS PLAN

It's Simple & Important to Your Success; Here's How to Get Started Today

BY RICH LEVIN

Plan your work, and work your plan. Both of these are necessary for a successful real estate career. Yet most practitioners suffer because they don't have a plan, never finished their plan or don't know how to implement their plan. As a result, their business, relationships, quality of life and even health may suffer.

There are five critical steps that ensure you implement and follow through on your business plan.

## 1. COMPLETE A SIMPLE PLAN

**A simple plan answers these questions:**

- a. What do you want your real estate career to do for your life in 2012?
- b. Why is that important to you?
- c. What conservative, one-year, measurable goal would indicate that you are well on your way?
- d. How will you measure it: weekly? monthly?
- e. What is the simplest action plan to accomplish your measurable goals? List three key projects; then figure

out how you can either start doing them or do them more consistently.

- f. What regular time and date each week can you set aside to assess your progress toward your overall goal and your key projects?

## 2. REDUCE YOUR KEY PROJECTS

**Make sure you've identified benchmarks each week and month to ensure you're making progress against your key projects. Benchmarks are simply the evidence of success. For example, if your project is to build your own Web site, then benchmarks would be:**

- a. Create a list of all the features and elements you want on your site.
- b. Create a marketing plan for driving traffic to your site.
- c. Interview and hire Web companies.



- d. Have beta site complete.
- e. Launch live site.

### 3. CREATE A SCHEDULE

This ensures you will complete the action steps. There are two parts to this schedule: The first is the schedule of benchmarks in the step above. The second is to choose one day of the week, the same day each week, at the same time, in the same place to work on each particular project. This step is the reason you choose a maximum of three priority projects.

### 4. SCHEDULE A TIME TO REVIEW PROGRESS

Each week, choose a day to evaluate the progress of each project (making decisions to keep going, complete, stop, or alter your work) and look at the progress of your measurable goals. Evaluating both your projects and your performance at this point is extremely important because you are then weighing the value and progress of your projects against the real measures of sales and income.

### 5. INSTILL A "NUMBERS CONSCIOUSNESS"

What gets measured gets done. An example of numbers consciousness for weight loss would be to set a target weight. Then, record what you eat and get on the scale every day until you get there. If you keep getting on the scale and adjusting what you eat, you are very likely to achieve your goal.

As a real estate professional, "numbers consciousness" means having sales and listing targets each month that add up to your annual goal. More importantly, it involves looking at them every week so that you always know where you stand for the month and the year. And you can make continual adjustments based on those numbers.

As you complete each step and as you review your progress each week, you gain tremendous insight into your business. Your business intelligence and motivation grow in a very natural way. I provide a daily reinforcement of this process in my coaching programs because success with this business plan is dependent on a modest level of self-discipline. Every real estate professional is capable of it. 🏠

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<http://realtormag.realtor.org/sales-and-marketing/sales-coach/article/2011/01/5-critical-steps-for-your-business-plan>

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## Additional Resources

### GRI 100 – BUSINESS PLANNING

<http://www.azgri.com/about-gri/course-descriptions.aspx>

This one-day required module focuses on the skills required to operate as an independent business within a real estate brokerage. Topics include developing a business plan, setting goals, marketing yourself, creating a vision and slogan and building a budget. (To find a class near you, consult the [2012 GRI Class Calendar](#).)

<http://www.azgri.com/pdf/2012-at-a-glance-calendar.pdf>

### BUSINESS PLANNING 101 BY STEFAN SWANEPOEL

<http://realtormag.realtor.org/for-brokers/feature/article/2001/01/business-planning-101>

*REALTOR® Magazine*

### HOW TO APPROACH A BUSINESS PLAN MAKEOVER

<http://realtormag.realtor.org/for-brokers/feature/article/2009/04/how-approach-business-plan-makeover>

*REALTOR® Magazine*

## EVOLVED MARKET... EVOLVED e-PRO®

Friday, January 27 | 9:00am – 4:30pm

Scottsdale Area Association of REALTORS®

\$99 | *To earn the e-PRO, you must take an additional fee course.*

[Register Online](#) | [Class Flyer](#)

<http://www.regonline.com/saarepro>

<http://www.aaronline.com/education/class-flyers/120127-e-pro-saar.pdf>

Improve your social media and technology skills!

1. 41% of REALTOR® business development time is spent on online marketing activities.
2. 63% of REALTORS® use Facebook on a monthly basis.
3. 66% of REALTORS® feel a good web presence best attracts buyers.

This program gives you a roadmap to build your business and serve the hyper-connected consumers of today and tomorrow.

1. Learn about the changing market and how to connect with consumers
2. Manage your online reputation
3. Generate leads and gain referrals

Instructor: Joeann Fossland

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## rCRMS: LEASING ESSENTIALS — SEVRAR & TUCSON

Friday, January 27 | 9:00am – 4:00pm

Southeast Valley Regional Association of REALTORS®

\$99 by January 22 | [Register Online](#) | [Class Flyer](#)

<http://www.regonline.com/crmslejan>

<http://www.aaronline.com/education/class-flyers/120127-rcrms-sevrar.pdf>

This course addresses risk management topics and issues related to the AAR 2008 Residential Leasing Agreement, landlord/tenant laws, property management and brokers' responsibilities. Upon completion of this course, students will be able to:

- Avoid risks addressed by the AAR Residential Lease Agreement ("Agreement").
- Describe how the Agreement protects tenants and landlords in a leasing transaction.
- Explain the requirements of ARLTA as they relate to the duties of landlords and tenants.

OR

Thursday, February 9 | 9:00am – 4:00pm

First American Title Classroom – Riverside Branch – Tucson

\$99 by February 4 | [Register Online](#) | [Class Flyer](#)

<http://www.regonline.com/crmstucle>

<http://www.aaronline.com/education/class-flyers/120209-leasecrms-tucson.pdf>

- Identify the risks associated with noncompliance with ARLTA.
- Describe the statutory requirements of property management agreements.

**Instructor: Sue Flucke (Keller Williams Realty Professional Partners) & Denise Holliday (Holliday & Holliday, PC)**

**C/E: 3-contract law, 3-legal issues**

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## PROPERTY MANAGEMENT BOOTCAMP IN TUCSON

Friday, February 10, 2012 | 8:30am – 4:30pm

Tucson Association of REALTORS®

\$59 (lunch provided) | [Register Online](#) | [Class Flyer](#)

<http://www.regonline.com/pmbctuc>

<http://www.aaronline.com/education/class-flyers/120210-pmbootcamp-tucson.pdf>

**CE: 3-contract law/3-disclosure**

**Instructors: Steve Urie, Sue Flucke, Mike Mulvena, Denise Holliday**

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Are you managing "just a few" properties for your clients? What you don't know about property management can hurt you! This "bootcamp" will cover topics such as:

- Disclosures
- Landlord/Tenant Act
- Fiduciary Responsibilities
- Tenant Relations
- Broker Responsibilities
- Loss Prevention
- Risk Management

## Election Notice – 2013 AAR Line Officers

The election for 2013 AAR line officers will be held in Prescott during Winter Conference (March 8-9, 2012). The filing period is now open for the positions of President-Elect, First Vice President and Treasurer, with one-year terms beginning December 1, 2012. Applications are due to the AAR office by January 9, 2012. Applications are available online at [www.aaronline.com/documents/ElectApp.pdf](http://www.aaronline.com/documents/ElectApp.pdf).

As of December 6, AAR has received applications for Treasurer from **Paula Serven** (Scottsdale Area Association of REALTORS®) and **Duane Washkowiak** (Southeast Valley Regional Association of REALTORS®).

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## Election Notice – Regional Vice Presidents – Regions 2 & 4

The two-year term (2013-14) positions of AAR Regional Vice President (RVP) for **Region 2** (Phoenix; West Maricopa County Regional) and **Region 4** (Scottsdale Area; SEVRAR; Western Pinal) are open for election. If you are interested in applying, please contact your current RVP:

Region 2 RVP Contact:  
Jan Leighton ([AZRealLady@aol.com](mailto:AZRealLady@aol.com))

Region 4 RVP Contact:  
Susan Abdullah ([thinkinboutit@cox.net](mailto:thinkinboutit@cox.net))

RVPs must notify AAR by **February 1, 2012**.

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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.

In Fall 2011, AAR announced that Mack, Drucker & Watson would take over as the new Legal Hotline provider effective October 2011. A new format for the Legal Hotline Q&As began last month (December 2011). Let us know what you think of the new format in the comments section online!

## LANDLORD/TENANT

[http://www.aaronline.com/documents/HL\\_L\\_T.aspx](http://www.aaronline.com/documents/HL_L_T.aspx)

### Residential Landlord May Charge a Non-Refundable Pet Fee

#### FACTS AS PRESENTED BY THE CALLER:

The owner of a luxury home intends to rent the home to a tenant with pets.

#### ISSUE:

Does the statutory cap on the security deposit prohibit the landlord from charging a substantial non-refundable pet fee?

#### ANSWER:

No.

#### DISCUSSION:

Generally speaking, a landlord may not demand a security deposit in excess of 1½ times the monthly rent. See A.R.S. § 33-1321(A). However, a pet fee that is not refundable is an item separate from the security deposit. Id; See also A.R.S. § 33-1310(14). Thus, provided the pet fee is clearly specified as being non-refundable and is reasonable under the circumstances, the statutory cap on a security deposit does not prohibit the landlord from charging an additional pet fee.

## HAVE YOU SIGNED UP FOR THE LEGAL HOTLINE?

The Legal Hotline provides all AAR broker members (designated REALTORS® — DRs) free access to a qualified attorney who can provide information on real estate law and related matters.

### Find out how brokers can access the Legal Hotline

[http://www.aaronline.com/documents/hotline\\_access.pdf](http://www.aaronline.com/documents/hotline_access.pdf)

### Browse more Legal Hotline topics online

<http://www.aaronline.com/documents/LH.aspx>

## AGENCY

[http://www.aaronline.com/documents/HL\\_Agency.aspx](http://www.aaronline.com/documents/HL_Agency.aspx)

### A Loan Originator's License Required for an Agent to Receive Additional Compensation in Connection With a Short Sale

#### ISSUE:

Under what circumstances must a licensed Arizona real estate agent be licensed as a loan originator by the Arizona Department of Financial Institutions in conjunction with a short sale?

#### ANSWER:

This issue was addressed in detail by Arizona Department of Real Estate ("ADRE") Commissioner Judy Lowe via a published document titled "UPDATE on the Short Sale Negotiator Regulations; February 9, 2011." That publication addresses the issue as follows:

May a real estate broker/salesperson receive additional compensation for negotiating a short sale?

No. A real estate licensee may not receive additional compensation from any source (seller, buyer, lender or otherwise) for negotiating a short sale, unless the real estate licensee is also licensed as a loan originator by the Arizona Department of Financial Institutions ("DFI") and the requirements of A.R.S. § 32-2155(C) are met. The general rule is that additional compensation requires an additional license. If a real estate broker/salesperson assists the seller in negotiating with the lender to accept the short sale price as a customer service and does not charge or expect additional compensation (including an increased commission), the real estate broker/salesperson does not need a separate loan originator license from the DFI.



Accordingly, unless acting as either a listing agent in the transaction receiving a commission or licensed as a loan originator by the DFI, a real estate licensee may not receive compensation for negotiating a short sale.

## SUBDIVISION

[http://www.aaronline.com/documents/HL\\_Subdiv.aspx](http://www.aaronline.com/documents/HL_Subdiv.aspx)

### A Subdivision Report Is Required for a Bank that Acquires Five or More Properties in a Single Subdivision

#### FACTS:

A brokerage has been retained by a lender to sell more than five properties in a subdivision that does not have an existing subdivision public report. The agent has requested that the bank fill out a report prior to listing, but the bank has refused and alleged it is not required to report.

#### ISSUE:

Is the bank required to report? If so, is there liability for the brokerage for selling the property in absence of a report?

#### ANSWER:

Yes, the bank is required to issue a public report pursuant to A.R.S. § 32-1281 as a subdivider of real property. Upon the sale of an illegal subdivision, the brokerage is civilly liable to the buyer pursuant to A.R.S. § 32-21083.03, and liable to the ADRE pursuant to A.R.S. § 32-21085.09. The brokerage is also subject to suspension or revocation of its license.

## LANDLORD/TENANT

[http://www.aaronline.com/documents/HL\\_L\\_T.aspx](http://www.aaronline.com/documents/HL_L_T.aspx)

### A Property Manager Should Wait until the End of a Tenancy before Returning Security Deposit, Unless the Landlord Agrees Otherwise

#### FACTS AS PRESENTED BY THE CALLER:

The broker represents the owner of residential real property. On September 4, 2011, a notice of trustee's sale was posted on the rental. On October 6, 2011, the broker sent the owner a notice of termination of the management agreement along with an "Owners Authorization for Refund of Security Deposit," which provides for the return of the security deposit to the tenant. Despite these efforts, the broker has been unable to contact the owner. In addition, the tenant has informed the broker of the tenant's plans to move out of the property prior to the

trustee's sale (scheduled for December 23, 2011) and has requested a return of the security deposit.

#### ISSUE:

Can the Broker refund the tenant's deposit now?

#### ANSWER:

No.

#### DISCUSSION:

There is a difference between terminating the Property Management Agreement because a notice of trustee's sale is received and being able to refund a deposit because of an actual trustee's sale. More specifically, the broker is free to terminate its relationship with the owner. However, pursuant to lines 33-34 of the AAR Property Management Agreement, only upon the actual trustee's sale is it permissible for the broker to return the deposit. Thus, the broker should not refund the security deposit unless the owner approves of the request.

## TITLE/INTEREST IN PROPERTY

[http://www.aaronline.com/documents/HL\\_T\\_I\\_L.aspx](http://www.aaronline.com/documents/HL_T_I_L.aspx)

### Forcible Detainer Remedy Not Available in a Failed Lease Purchase

#### FACTS AS PRESENTED BY THE CALLER:

The parties signed a Lease Purchase Agreement for Residential Property whereby a portion of the tenant's rental payments were to be applied to the purchase price. Close of escrow was set for one year after the agreement was entered into. Eight months into the arrangement, the buyers/tenants stopped making payments, and the seller/landlord wants to regain possession of the property.

#### ISSUE:

Can the seller initiate a forcible entry detainer action to speedily regain possession of the property?

#### ANSWER:

No.

#### DISCUSSION:

By statute, an issue involving "title" to a residential property cannot be adjudicated in a forcible detainer action. Because the buyer had a right to purchase the property by virtue of the parties' agreement, title is an issue. Accordingly, the landlord may not resort to the forcible detainer action. Rather, to regain possession, the seller/landlord must initiate a typical quiet title or ejectment action, which is typically not entitled to expedited processing and could take as long as 12 to 18 months to complete.



## CONTRACTS

[http://www.aaronline.com/documents/HL\\_Contract.aspx](http://www.aaronline.com/documents/HL_Contract.aspx)

### Contract Requires Seller to Protect Vegetation Pending Escrow

#### FACTS AS PRESENTED BY THE CALLER:

The buyer and seller executed the standard AAR Purchase Contract. While escrow was pending, the buyer requested that the seller cover the extensive vegetation on the property so that it does not freeze.

#### ISSUE:

Must the seller take steps to maintain the property?

#### ANSWER:

Yes.

#### DISCUSSION:

In the AAR Purchase Contract, the seller promises that at the close of escrow the property "will be in substantially the same condition as the date of contract acceptance." See lines 169 through 170. The contract also provides that the risk of loss is on the seller for an act of God and further provides that either party may cancel if the damage to the premises exceeds ten percent of the purchase price. See lines 335 through 338.

Based on these provisions, the seller has an obligation to take reasonable steps to maintain the property pending escrow, including covering vegetation necessitated by unseasonably cold weather.

A real estate broker/salesperson cannot collect compensation for negotiating loans unless: (1) they are licensed pursuant to title 6, chapter 9 as a mortgage broker, mortgage banker or loan originator; 2) they have disclosed to the person from whom the compensation is collected that they are receiving compensation for both the real estate and mortgage broker services and 3) the compensation does not violate any other state or federal law. A.R.S. § 32-2155(C).

## SHORT SALES

[http://www.aaronline.com/documents/HL\\_shortsales.aspx](http://www.aaronline.com/documents/HL_shortsales.aspx)

### Lender Issues 1099 When Debt Is Forgiven in a Short Sale

#### FACTS AS PRESENTED BY THE CALLER:

The lender approved the short sale, but the seller requested that the lender not issue a 1099 in connection with that short sale. The lender refused.

#### ISSUE:

Must a lender issue a 1099 to the seller in connection with a short sale?

#### DISCUSSION:

Virtually always, approval of a short sale includes a lender forgiving some debt owed by the seller. Under the Internal Revenue Code, lenders are required to issue 1099s when debt is forgiven.

NOTE: Even though a 1099 is issued, the seller may have no tax liability under the Mortgage Debt Relief Act of 2007. An independent CPA should be consulted.

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