

AAR Risk Management Committee 2013 Business Plan

FROM: Risk Management Committee (RMC)

Chairman: Armando Contla

Vice Chairman: Tahona Epperson

RMC Liaison: Scott Drucker

DATE: October 15, 2013

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CURRENT TOP PRIORITIES

Scheduled RMC Meetings: November 6th

- **Continue Grievance Committee and Professional Standards support**
 - Maintain and enhance Ethics hearing and Arbitration hearing process
 - Professional Standards Newsletter
- **Enhance dispute resolution services**
 - Administer the Buyer/Seller Dispute Resolution System (DRS) and Mediation program.
 - Mediator/Ombudsmen Training – October 24, 2013
- **Forms**
 - 2008 Residential Lease Agreement revision
 - Buyer Contingency Addendum revision
 - Purchase Contract for New Home w/ Lot revision
 - Residential SPDS revision
 - Assumption Carryback Addendum revision
- **Legal Hotline Support**
 - Continue promotion efforts
- **Regulatory Issues**
 - Continue to work with ADRE
 - NEW Regulatory Agency Workgroup
 - NEW Hotline Workgroup
- **Risk management education and information**
 - AZR articles
 - Broker/Manager Risk Management Update

RECOMMENDATIONS

- No recommendations at this time.

GROUPS FORMED

- Grievance Committee
- Professional Standards Committee
- Professional Standards Policy & Training workgroup
- Landlord/Tenant Advisory workgroup
- Property Management Ancillary forms workgroup
- Purchase Contract for New Home w/ Lot revision workgroup
- Buyer Contingency Addendum revision workgroup

- Residential SPDS revision workgroup
- Assumption Carryback form revision
- Regulatory Agency workgroup
- Hotline Workgroup

The following are programs, products, services and activities (PPSA's) with Risk Management Committee oversight.

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PROFESSIONAL STANDARDS

Professional Standards Administration is the processing of ethics complaints and arbitration requests.

This program involves:

- **Grievance Committee (GVC):** Process complaints/monthly meetings
- **Professional Standards Committee (PSC):** Schedule and staff hearings
- **Professional Standards Policy and Training Workgroup:** Reviews policies and implements training

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> • GVC: Prompt review of complaints 	<ul style="list-style-type: none"> • 2nd Quarter Filings Ethics = 24 (11 Forwarded) Arbitrations = 4 (1 Forwarded)
<ul style="list-style-type: none"> • PSC: Complete ethics cases promptly 	<ul style="list-style-type: none"> • 2nd Quarter Ethics Filed= 24 Held = 8
<ul style="list-style-type: none"> • PSC: Complete arbitrations promptly 	<ul style="list-style-type: none"> • 2nd Quarter Arbitrations Filed = 4 Held = 1
<ul style="list-style-type: none"> • Update PS policy adaptations as necessary 	<ul style="list-style-type: none"> • PS Training & Policy workgroup recommendations presented and approved at August 7 meeting.

Mediation Program This program involves facilitating mediations to resolve ethics complaints and arbitration requests.

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> • Facilitate mediation requests on a timely basis 	<ul style="list-style-type: none"> • 2nd Quarter Mediation Filed = 11 Held = 7 Successful = 6
<ul style="list-style-type: none"> • Receive positive feedback from mediation evaluations 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Maintain list of qualified mediators 	<ul style="list-style-type: none"> • 20 mediators for 2013
<ul style="list-style-type: none"> • Update mediation policies and procedures as necessary 	<ul style="list-style-type: none"> •

Ombudsman Program This program involves taking complaint calls/emails and facilitating Ombudsman contact to attempt resolution.

Measurable Goals: *(to come from Tammy)*

Measurable objectives	Status
<ul style="list-style-type: none"> Facilitate ombudsman requests on a timely basis 	<ul style="list-style-type: none"> 2nd Quarter Ombudsmen requests Filed = 6 In process = 0 Successful = 5
<ul style="list-style-type: none"> Receive positive feedback from ombudsman evaluations 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Maintain list of qualified ombudsmen 	<ul style="list-style-type: none"> 24 Ombudsmen for 2013
<ul style="list-style-type: none"> Update PS policy adaptations as necessary 	<ul style="list-style-type: none"> Meeting held on January 9th to draft Ombudsmen call policies

Professional Standards, Mediation, and Ombudsman Education and Training

This program includes training for members of Grievance and Professional Standards Committees and AAR Mediators and Ombudsmen.

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> Offer PS Training for GVC and PS Committee 	<ul style="list-style-type: none"> PS Workshop held on Wednesday, January 23rd
<ul style="list-style-type: none"> Offer Mediator training 	<ul style="list-style-type: none"> To be held October 24th
<ul style="list-style-type: none"> Offer Ombudsman training 	<ul style="list-style-type: none"> To be held October 24th
<ul style="list-style-type: none"> Offer hearing panel chair training 	<ul style="list-style-type: none"> To be held November 14th
<ul style="list-style-type: none"> Publish PS, Mediation and Ombudsman information 	<ul style="list-style-type: none"> Newsletter sent September 2013
<ul style="list-style-type: none"> PS outreach to members 	<ul style="list-style-type: none"> On-going

Dispute Resolution System (DRS) This program provides alternative dispute resolution options (mediation or arbitration) for buyers and sellers to resolve disputes or claims arising out of the AAR purchase contract.

Measurable Goals: *(to come from Tammy)*

Measurable objectives	Status
<ul style="list-style-type: none"> Offer an effective DRS program 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Recruit effective DRS providers 	<ul style="list-style-type: none"> 23 Mediators currently
<ul style="list-style-type: none"> Ensure compliance of DRS providers with program's directives 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Receive positive feedback from DRS evaluations 	<ul style="list-style-type: none"> On-going

RISK MANAGEMENT

Forms Development This program involves:

Drafting - Draft new forms as needed and revise current forms

Education - Forms information updates on website, emails and other communication vehicles.

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> • Workgroups formed as necessary 	<ul style="list-style-type: none"> • Landlord/Tenant Advisory workgroup • Property Management Ancillary forms workgroup • Buyer Contingency Addendum revision workgroup • Assumption Carryback workgroup • SPDS workgroup • Purchase Contract for New Home with Lot revision workgroup
<ul style="list-style-type: none"> • Forms drafted or revised for introduction in February as necessary 	<ul style="list-style-type: none"> • Motions for ExCom approval 01/18/13 <i>New Buyer Pre-closing Walkthrough form.</i> <i>Revised Application for Occupancy</i> <i>Revised Vacant Land/Lot Purchase Contract</i> <i>Revised Vacant Land/Lot BINSR</i> <i>Revised Loan Status Updated</i> <i>Revised Pre-qualification form</i>
<ul style="list-style-type: none"> • Forms are drafted or revised for introduction in August as necessary 	<ul style="list-style-type: none"> • Motions for ExCom approval 06/14/13: <i>New Property Management Notices:</i> <ol style="list-style-type: none"> 1. Notice to Tenant of Management Termination 2. Statement of Disposition of Deposits and Accounting 3. Notice of 2 Day Access 4. Notice of Abandonment 5. Notice of Nonrenewal of Lease Agreement
<ul style="list-style-type: none"> • Deliver timely forms information/education 	<ul style="list-style-type: none"> • Articles posted on AARonline.com, AAR Blog and AZR magazine • Update to Lease Owner Advisory 09/13/13

Legal Hotline This program allows designated brokers/managers to call in to the Hotline attorneys for answers to real estate-related legal questions, and includes:

- Program maintenance and monitoring
- Review of letters of opinion/articles for publication

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> • Promote Hotline usage 	<ul style="list-style-type: none"> • On-going
<ul style="list-style-type: none"> • Hotline to prepare ten Q&As on current issues/current “hot topics” six times per year 	<ul style="list-style-type: none"> • On-going

for the Arizona REALTOR® Digest and AAR website	
<ul style="list-style-type: none"> Hotline to maintain statistics on number and types of calls in cooperation with AAR staff 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Hotline attorney to attend AAR Risk Management Committee or Workgroup meetings as requested 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Hotline attorney to review new or revised AAR forms and notify AAR of any legal concerns or recommendations 	<ul style="list-style-type: none"> February forms reviewed Reviewed August forms
<ul style="list-style-type: none"> Hotline attorney to consult with AAR General Counsel on legal issues as requested 	<ul style="list-style-type: none">
<ul style="list-style-type: none"> Evaluate Hotline program by surveying members 	<ul style="list-style-type: none"> Survey sent to members November 2012
<ul style="list-style-type: none"> Form Hotline Workgroup to evaluate program 	<ul style="list-style-type: none"> Workgroup formed, will meet in the Fall

Industry Issues This program involves addressing current industry issues.

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> Develop system to maintain claims statistics to identify liability trends 	<ul style="list-style-type: none">
<ul style="list-style-type: none"> Foster alliances with defense attorneys and E&O carriers and mediators 	<ul style="list-style-type: none">

Legal & Industry Publications This program includes:

- Risk Management articles for AAR publications, ASREB Journal and other publications
- Articles on emerging legal issues for AAR publications, ASREB Journal and other publications
- Arizona Real Estate: A Professional's Guide to Law and Practice*
- Broker/Manager Risk Management Update
- Buyer Advisory
- Short Sale Seller Advisory
- Legal information and risk management information on website
- Risk Management Brochures

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> Distribution of time sensitive legal and risk management information and articles 	Articles published on: <ul style="list-style-type: none"> Stigmatized Property case – January 2013 AZR Regulation Z – February 2013 AZR Fannie Mae – February 2013 Buyer Walkthrough form – February 2013 Fair Housing – April 2013 Property Management forms FAQs – August 2013 ADRE Bulletin clarification – August 2013

	<ul style="list-style-type: none"> Hawk v. PC Village HOA – September 2013
<ul style="list-style-type: none"> Deliver a Broker/Manager Risk Management Update quarterly 	<ul style="list-style-type: none"> Issue sent December 2012 Issue sent March 2013 Issue sent June 2013 Issue sent September 2013
<ul style="list-style-type: none"> Maintain and update Buyer Advisory as necessary 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Maintain and update Short Sale Seller Advisory as necessary 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Maintain and update legal, risk management, fair housing, and international real estate content on AAR website as necessary 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Update written publications as necessary 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Promote use of Legal & Industry Publications 	<ul style="list-style-type: none"> On-going
<ul style="list-style-type: none"> Form workgroup to consider more effective dissemination of risk management information 	<ul style="list-style-type: none">

Legal and Legislative Outreach and Education This program includes:

- Speaking/teaching at local associations and member firms on legal issues and new legislation.
- Program participant in legal components of Winter Conference, Broker University, Partners Conference, Leadership Conference, educational outreach and other association programs.

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> Participation in legal and legislative programs 	<ul style="list-style-type: none"> 25 completed in the 2nd Quarter 5 completed in the 3rd Quarter to date

Legislative Support This program includes:

- Provide input on industry issues
- Assist AAR lobbyist in drafting legislation
- Promote laws that reduce member liability
- Testify at the legislature as needed on legislative issues
- Inform members of legislative issues and changes in conjunction with the Legislative and Political Affairs Committee.

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none"> Successful outcome in legislation supported and successful defeat of legislation opposed 	<ul style="list-style-type: none"> On-going

REGULATORY ISSUES This plan includes:

- Communicate with ADRE and other administrative agencies such as ADEQ, ADWR, DFI, and BTR on regulatory issues
- Review and make recommendations on proposed administrative rules or policy changes
- Serve on ADRE or other state agency committees, when available and appropriate
- Assist AAR CEO and lobbyist in drafting and testifying on proposed rules

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none">• Negotiation of reasonable regulatory rules and policies that are acceptable to AAR members and do not hinder their success	<ul style="list-style-type: none">• Completed Utility Rate Taxation – AZ Corporation Commission• Meetings with the Arizona Bankers Assoc. regarding anti-deficiency statutes
<ul style="list-style-type: none">• Maintain contact with ADRE Advisory Board	<ul style="list-style-type: none">• On-going
<ul style="list-style-type: none">• Establish a regulatory agency work group	<ul style="list-style-type: none">• Group formed – Met July 25, 2013• Next meeting November 21, 2013

General Programs

Support This program includes support programs, including:

- Continuing education
- State and County Bar dues
- Resource subscriptions
- Staff attendance at legal, legislative and industry meetings
- Copying and postage

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none">• All tasks assigned by the Committee are completed, updates and information provided to members after Professional Standards, continuing legal education class or industry meetings. General printing/postage/supply funds provide the tools to accomplish the Area's PPSA's	<ul style="list-style-type: none">• On-going

Related activities without direct Committee oversight

Legal Counsel

- Provide guidance to leadership and CEO on association legal concerns
- Review and advise on building/tenant issues and related contracts
- Review and advise on affinity agreements
- Prepare memoranda on legal issues as they arise
- Provide limited advice and guidance to local associations
- Respond to member inquires as appropriate

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none">• CEO, state leadership, committees, and local association executives are informed on legal issues and questions satisfactorily answered.	<ul style="list-style-type: none">• On-going

Litigation Support Related activities without direct committee oversight:

- Draft Amicus Briefs and monitor litigation and potential litigation or disputes in which AAR has an interest
- Legal research and evaluation of claims or issues
- Preparation of pleadings, memos and correspondence relating to claims or issues
- Coordinate with outside counsel in the representation of AAR on any claims or issues

Measurable Goals:

Measurable objectives	Status
<ul style="list-style-type: none">• Successful outcome in litigation and dispute resolution.	<ul style="list-style-type: none">• Hawk v. PC Village - Court of Appeals Opinion - September 3, 2013• Hack v. The Ranch at Prescott HOA – Certification of Decision of ALJ – August 5, 2013