
ARIZONA ASSOCIATION *of* REALTORS®

BREAKTHROUGH



To Tell or Not To Tell

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March 29, 2017

Objectives

1. Why do we disclose?
2. What do we disclose?
3. When do we disclose it?
4. How do we disclose it properly?

R4-28-1101

Commissioners Standards

B. A licensee participating in a real estate transaction shall disclose in writing to all other parties any information the licensee possesses that materially or adversely affects the consideration to be paid by any party to the transaction, including:

1. Any information that the seller or lessor is or may be unable to perform
2. Any information that the buyer or lessee is, or may be, unable to perform
3. Any material defect existing in the property being transferred
4. The existence of a lien or encumbrance on the property being transferred.

Code of Ethics and Standards of Practice

National Association of Realtors®

Effective January 1, 2014

The term Realtor® has come to connote competency, fairness, and high integrity resulting from adherence to a lofty ideal of moral conduct in business relations. No inducement of profit and no instruction from clients ever can justify departure from this ideal.

In the interpretation of this obligation, Realtors® can take no safer guide than that which has been handed down through the centuries, embodied in the Golden Rule, "Whatsoever ye would that others should do to you, do ye even so to them."

Code of Ethics

Article 2

Realtors® shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the property or the transaction. Realtors® shall not, however, be obligated to discover latent defects in the property, to advise on matters outside the scope of their real estate license, or to disclose facts which are confidential under the scope of agency or non-agency relationships as defined by state law. *(Amended 1/00)*

• Standard of Practice 2-1

Realtors® shall only be obligated to discover and disclose adverse factors reasonably apparent to someone with expertise in those areas required by their real estate licensing authority. Article 2 does not impose upon the Realtor® the obligation of expertise in other professional or technical disciplines. *(Amended 1/96)*

• Standard of Practice 2-4

Realtors® shall not be parties to the naming of a false consideration in any document, unless it be the naming of an obviously nominal consideration.

• Standard of Practice 2-5

Factors defined as "non-material" by law or regulation or which are expressly referenced in law or regulation as not being subject to disclosure are considered not "pertinent" for purposes of Article 2. *(Adopted 1/93)*

Article 3

Standard of Practice 3-4

Realtors®, acting as listing brokers, have an affirmative obligation to disclose the existence of dual or variable rate commission arrangements (i.e., listings where one amount of commission is payable if the listing broker's firm is the procuring cause of sale/lease and a different amount of commission is payable if the sale/lease results through the efforts of the seller/landlord or a cooperating broker). The listing broker shall, as soon as practical, disclose the existence of such arrangements to potential cooperating brokers and shall, in response to inquiries from cooperating brokers, disclose the differential that would result in a cooperative transaction or in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease. *(Amended 1/02)*

Article 7

In a transaction, Realtors® shall not accept compensation from more than one party, even if permitted by law, without disclosure to all parties and the informed consent of the Realtor®'s client or clients. *(Amended 1/93)*

Article 11

The services which Realtors® provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate. Realtors® shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth. *(Amended 1/10)*

Standard of Practice 11-1

When Realtors® prepare opinions of real property value or price they must:

- 1) be knowledgeable about the type of property being valued,
- 2) have access to the information and resources necessary to formulate an accurate opinion, and
- 3) be familiar with the area where the subject property is located unless lack of any of these is disclosed to the party requesting the opinion in advance.

When an opinion of value or price is prepared other than in pursuit of a listing or to assist a potential purchaser in formulating a purchase offer, the opinion shall include the following unless the party requesting the opinion requires a specific type of report or different data set:

- 1) identification of the subject property
 - 2) date prepared
 - 3) defined value or price
 - 4) limiting conditions, including statements of purpose(s) and intended user(s)
 - 5) any present or contemplated interest, including the possibility of representing the seller/landlord or buyers/tenants
 - 6) basis for the opinion, including applicable market data
 - 7) if the opinion is not an appraisal, a statement to that effect
 - 8) disclosure of whether and when a physical inspection of the property's exterior was conducted
 - 9) disclosure of whether and when a physical inspection of the property's interior was conducted
 - 10) disclosure of whether the Realtor® has any conflicts of interest
- (Amended 1/14)*

Standard of Practice 16-10

Realtors®, acting as buyer or tenant representatives or brokers, shall disclose that relationship to the seller/landlord's representative or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord's representative or broker not later than execution of a purchase agreement or lease. *(Amended 1/04)*

Standard of Practice 16-11

On unlisted property, Realtors® acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. *(Amended 1/04)*

Standard of Practice 16-12

Realtors®, acting as representatives or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement. *(Amended 1/04)..*

Possible Consequences

Contractually Speaking
