RECOMMENDATION to Executive Committee

FROM:

LPA COMMITTEE

RECOMMENDATION:

To approve the proposed changes to the 2018 – 2019 Legislative Program Policy positions.

BACKGROUND:

The proposed changes made to the Arizona Association of REALTORS® 2018-2019 Legislative Program Policy Positions were formulated at the annual REALTOR® Caucus. The Caucus is an opportunity for REALTOR® members to confer and bring forth issues that have the potential to impact the industry on a statewide basis.

The Legislative and Political Affairs Committee reviews member input from the Caucus and approves the changes and additions to the policy positions, which will dictate the association's legislative agenda for 2018-2019.

On September 15, the proposed 2018 – 2019 Legislative Program Positions was approved by a majority vote of the Legislative and Political Affairs Committee.

BUDGET IMPACT:

NONE

MOTION:

TO APPROVE THE PROPOSED CHANGES TO THE 2018 – 2019 LEGISLATIVE PROGRAM POLICY POSITIONS.

FOR MORE INFORMATION CONTACT:

Committee Chair Gary Nelson – (928) 600-4279/ Gary@GaryNelsonGroup.com

OR Staff Liaison Nicole LaSlavic – (602) 248-7787 / nicole@aaronline.com

ARIZONA ASSOCIATION OF REALTORS®

REALTORS® 2018 - 2019 LEGISLATIVE POLICIES

AS APPROVED ON

REAL SOLUTIONS. REALTOR® SUCCESS.

AAR GOVERNMENT AFFAIRS…the most respected, influential political entity in Arizona.

Introduction

As part of its ongoing legislative policy development process, AAR seeks input from all aspects of the real estate industry at the earliest possible time when formulating or reviewing legislation affecting the industry. AAR also, through its overall lobbying process, continually reviews the rules and regulations proposed by state agencies affecting the real estate industry. The principles and policy statements on the following pages are intended to give direction to AAR's overall legislative effort.

AAR Legislative Policy Statement Development

The policy statements are divided into three priority categories. Those categories are described as follows:

1. **Basic Principles:** These principles are very unlikely to change from year-to-year. They include such issues as cooperation with governmental agencies, private property rights protections, fair housing principles and others.

2. **Ongoing Policy Statements:** These statements describe those positions that AAR would take in the event AAR or another entity proposes legislation during the session that has not been identified as expected legislation for the upcoming session. This category contains the bulk of the policy statements and provides AAR lobbyists with a quick response to AAR's position on many issues if the need should arise.

3. **Upcoming Legislative Session(s) Program:** This category contains those specific issues that AAR expects to introduce or strongly support as part of a coalition in the next two years. It also includes expected legislation that AAR intends to strongly oppose.

Basic Principles

These principles are very unlikely to change from year-to-year. They include such issues as cooperation with governmental agencies; private property rights protections, fair housing principles, and others. The following principles are the foundation of the Arizona Association of REALTORS® positions regarding governmental and legislative action.

1. Property owners' water and property rights must be protected.

2. All people must have fair and equal availability of housing without regard to race, religion, color, sex, handicap, familial status, or national origin.

3. Educate and create awareness with REALTORS® and the public in regard to housing needs, programs and opportunities.

4. Solid waste management must be efficient and ecologically sound.

5. Prevention of hazardous waste problems and identification and cleanup of existing hazardous waste sites must be adequately funded.

6. Government must have a common-sense approach to environmentally sensitive issues with due consideration to private property rights.

7. Real estate licensees must have protection against unreasonable duties of inspection and disclosure outside the scope of their real estate licensure.

8. The regulatory and rule-making processes should be streamlined and simplified to the regulated industry.

9. The interpretation and enforcement of statutes and rules affecting property owners and their rights must be consistent throughout Arizona.

10. The interpretation and enforcement of statutes and rules affecting licensees and their obligations must be consistent throughout Arizona.

11. AAR should maintain a liaison relationship with state agencies and all branches of government so that:
    a. Information flows freely between those agencies and AAR.
    b. AAR may assist those agencies in addressing matters related to AAR members and private property rights.
    c. AAR may provide the industry's viewpoint on matters under consideration by those agencies.

12. Good communication should be maintained between state agencies regarding matters impacting real estate consumers.

13. State agencies affecting the real estate industry must have adequate funding and staffing.

14. State agencies affecting the real estate industry must practice good financial management and fiscal accountability.

15. There should be greater cooperation between federal, state, and local authorities to benefit the public regarding regulation and disclosure of matters affecting real property.

16. Oppose unfunded mandates to prevent further tax burdens at the local level.

17. Oppose any public takings or devaluation of private property rights by body of government unless through formal condemnation proceedings and the provision of just compensation.

18. Seek governmental accountability through legislative review of the overall budget.

Ongoing Position Statements

These statements describe those positions that AAR would take in the event that AAR or another entity proposes governmental action or legislation and which have not been identified as expected governmental action or legislation for the upcoming session. This category contains the bulk of the policy statements and provides AAR lobbyists with a quick response to AAR's position on many issues if the need should arise. If legislation or regulation were proposed on the following topics, AAR's position would be to:

Real Estate Regulation

1. The Arizona Department of Real Estate should be adequately funded by the Legislature.
2. Support an increase in fees if necessary to support adequate ADRE funding.
3. Support efforts to enhance the Arizona Department of Real Estate's Advisory Board's role in the accomplishment of the Department's mission.
4. Oppose attempts to repeal or reduce continuing education requirements and support an increase in the quality of continuing education requirements and the quality of instructors.
5. Favor efforts to increase minimum instructor standards and other assurances of quality real estate education.
6. Support the addition of a three-hour mandatory ethics class for license renewal.
7. Support legislation that would establish some form of limited written license reciprocity where individuals licensed in other states who apply for Arizona licenses could obtain an Arizona license without fulfilling the total license requirements.

The Environment

8. Favor current and other appropriate standards to reduce atmospheric pollution.
9. Favor the balancing of environmental concerns with those of business and private property owners of Arizona properties.
10. Favor economical but effective standardized environmental property assessments.
11. Oppose any change to regulations that limit pest control reports to wood infestation items only.
12. Support policies or legislation addressing forest management practices that prevent and minimize catastrophic forest fires, infestation, and clean up.

Financing

13. Oppose any effort that would allow banks, and savings and loans to expand into real estate brokerage business.
14. Support laws that would protect property owners against deficiency judgments.
15. Support the procedure of lender selection of appraisers for FHA and VA loans.
16. Support legislation that would:
    a. Require lenders to provide consumers with their specific credit score, the credit information used to compile the score, and an explanation of how credit scores work in the loan approval process;
    b. Compel reporting agencies to correct inaccurate information in a timely manner;
    c. Require lenders to use the FICO score as a tool together with other underwriting methods to ensure consistency, and not as a SOLE determinant in lending decisions.
17. Oppose abusive or predatory lending practices such as unsuitable loan terms and deceptive claims that can result in home equity stripping, diminished personal credit standing, or violations of federal or state consumer protection statutes and regulations.

Taxation

18. Oppose any proposed tax on any type of property transaction or any type of service not currently taxed. Also, favor a state constitutional amendment prohibiting such taxes.
19. Favor efforts to reduce reliance on real property taxes for capital finance of school construction, operation, and maintenance.
20. Favor continued deductibility, without limitation, on both federal and state personal income taxes of interest and property taxes on primary and secondary homes.
21. Favor elimination or reduction of state and federal capital gains and estate taxes.
22. Favor any efforts to improve passive loss benefits and their deductibility.
23. Favor increased payments in lieu of property tax on federal lands in Arizona in order to reimburse local governments for the loss of state and local property taxes.
24. Support efforts to repeal rental or lease tax on real property at any level of government.
25. Oppose any change that would diminish the value of tax-deferred exchanges.
26. No fee can be used for any purpose other than to offset the cost it was intended to cover.
27. Monitor proposed tax changes in accordance with existing legislative policy statements and prepare for a referendum, should it become necessary.

28. Favor reduction of the residential and commercial depreciation schedules, including reduction of the tenant improvement depreciation schedule.
29. Support simplification and streamlining of the tax-deferred exchange process.
30. AAR will oppose any effort to institute a real estate transfer tax and may support actions to prohibit such by law at the ballot or at the state legislature.
31. AAR will oppose any effort to raise property taxes to purchase open space without the vote of the people.
32. AAR will oppose any effort to institute a professional service tax and may support actions to prohibit such by law at the ballot or at the state legislature.

Property Transfers

33. Oppose any legislative efforts to mandate a property inspection as a prerequisite to transferring real estate.
34. Oppose any legislative efforts to mandate a home warranty as a prerequisite to transferring residential resale real estate.
35. Oppose any legislative efforts to mandate a survey as a prerequisite to transferring real estate.
36. Support legislation to require Homeowner's Association (HOA) Management Companies to have approval of the transfer fee by the HOA's Board of Directors with proper notice to all homeowners.
37. Support legislation that would require an advisory statement to be provided to buyers defining "homeowner's association" and its effect on residents/owners within the association.
38. Support legislation further clarifying marketing efforts of real estate licensees.

Zoning/Land Use

39. Favor any efforts to prohibit abuses of private property rights through zoning, the permitting process, and other actions.
40. Oppose any proposed takings of private property rights by a body of government, unless through formal condemnation proceedings and/or if just compensation is paid to the owner.
41. Favor requiring due process to enact any zoning, floodplain, or similar ordinance affecting property values or rights, to ensure the purpose of the ordinance is not merely to implement social goals.
42. Support the basic principle of private property ownership of riverbeds not determined to be navigable.
43. Support legal non-conforming uses and acknowledge that they are an integral portion of a property's value, usability and uniqueness in the marketplace.

Subdivisions

44. Favor efforts to enforce compliance of county and municipal ordinances with the state Enabling Act with respect to lot splits and minor land divisions.
45. Favor any efforts to require that subdivision regulations at all levels of government be in agreement.
46. Generally oppose any efforts to establish impact fees but consider each proposal individually.

Flood Control

47. Favor changes to flood plain ordinances which would provide for the property's removal from a flood plain designation once any problems have been mitigated.
48. Oppose any change to flood plain regulation or elevations exceeding Federal Emergency Management Agency national flood insurance standards and criteria unless historical and engineering data prove the regulation or elevations necessary.
49. Oppose flood control districts' ability to take or use private property for anything except direct flood control.

State Trust Lands

50. Support efforts to change the state Land Commissioner's ability to engage in the exchange of state trust lands.
51. Favor systematic and phased release of trust land.
52. Favor traditional compatible uses for state trust lands.
53. Permit the utilization and location of physically existing public roadways for ingress/egress (public roadway and access roads) and utility easements or rights of way.
54. Support the elimination of archaeological and native plant requirements when an applicant is locating the public roadway, access road or utility easement within a previously disturbed area.
55. The expansion of the parties to whom a perpetual right of way easement will be granted to include, but not be limited to: the dominant tenement, persons, corporations, limited liability corporations, partnerships, homeowner associations, and trusts.
56. Support the modernization and enhancement of the State Trust Land mission.

Federal Land

57. Favor requiring federal land management agencies to continue to collect public opinion on any proposals for changes in land use designations or fees for use of public lands.
58. Monitor proposed changes in designations of federal lands (e.g., parks, wilderness, scenic highways, etc.) and ensure private property rights.
59. Favor efforts to broaden the definition of excess land and simplify the criteria for its release for sale to private ownership.
60. Favor efforts to simplify the criteria and time frame for federal and private land exchanges.

Neighborhood/Habitability

61. Oppose change in the state's reasonable occupancy density standards for residential rental properties.
62. Oppose efforts to establish rent control of any kind.
63. Favor efforts to reduce the procedural time to evict residential tenants, requiring speedy service of legal documents, court action, and response by tenants.
64. Oppose any legislation related to blighted properties that would be inconsistent with the Arizona Landlord/Tenant Act.
65. Support efforts to require due process notice of all complaints or inspections of real property by governmental bodies, and oppose any consolidation of either by property, owner, etc.
66. Where civil responsibilities and criminal liabilities are placed on the property owner, make certain that they:
    a. Equally apply to all classes of property and are clearly defined;
    b. are accompanied by clearly defined and achievable remedies;
    c. do not abridge constitutionally guaranteed rights;
    d. do not result in financial burdens to the property owner that results in the taking of this property without reasonable compensation.
67. When registration of property owners is mandated, that it applies to all classes of property.
68. Support efforts toward the creation of a statewide pool barrier ordinance.

Transportation

69. Favor efforts to timely develop an updated statewide transportation system, including infrastructure for mass transit, after a comprehensive study of all alternatives.
70. Oppose efforts to establish additional fuel taxes for non-transportation purposes.
71. AAR supports efforts to ensure that the Highway Users Revenue Funds are distributed throughout the state based upon population within a county.
72. Support efforts to require statewide transportation planning for at least a period of 10 years in lieu of ADOT's current 5 year plans.
73. Support statewide transportation planning, accountability and acceleration of construction efforts.

Growth Management

74. Growth should not be limited if it affects the rights of property owners to move or build what they want within reasonable zoning requirements or without just compensation for any resulting government takings.
75. Growth boundaries affecting local governmental entities should be opposed by AAR at all costs.
76. Counties should not be granted similar authority as cities to regulate land use, including limiting the number of lot splits.
77. The maximum amount of parcels allowed for a property to be split without resulting in a subdivision should not be less than five.
78. Rezoning should occur only with the property owner's approval.
79. AAR opposes efforts that diminish the affordability of real property.

Housing Affordability

80. Support legislation that would:
    a. Educate the public to housing opportunity programs.
    b. Increase funding/opportunity for housing assistance primarily through grants and other voluntary efforts.
    c. Stimulate infill incentives.
    d. Assist in expanding housing opportunities for special needs, service workforce, minorities, and first-time homebuyers.
81. Exemptions to impact fees should be provided for housing marketed to low and moderate-income households.
82. Encourage planning activities that promote affordable housing through higher density and mixed-use development.
83. Work with the Arizona Department of Housing in providing education and information on home ownership.

General Topics

84. Favor requiring government at all levels to meet the same building standards and codes required of private citizens.
85. Oppose efforts to curtail licensees' rights to make solicitations.
86. Oppose any change in the exemption of principals from workers' compensation insurance on independent contractors and sole proprietors affiliated with them.
87. Oppose state legislation that would make fire suppression mandatory in new homes.
88. Support legislation that would allow both the buyer's agent and the listing agent in the same firm to represent buyer and seller without creating a dual agency.
    - The legislation would not affect the legal implications of "actual knowledge" of any agent; in other words, the agents have the same disclosure duties regarding known material facts.

    Legislation addressing this issue could:
    a. Allow buyers and sellers full representation in "in-house" sales, which is what they expect and deserve (e.g., pointing out features to buyers that aren't material defects but could concern some buyers which could dissuade the buyer client from buying and be detrimental to the client seller).
    b. Eliminate the "legal fiction" of dual agency in "in-house" sales, where the two agents may not even know each other and never share information.
    c. Continue to recognize dual agency when a licensee personally represents both parties to the transaction and requires informed written consent.
    d. Require consent of the appointment to inform and protect the consumer.
    e. put into statute what has been left unclear by the common law of agency.
    f. Clarify the role of the broker in an "in-house" sale.
    g. Allow the agent to seek guidance from the broker, but require that the broker keep confidential information confidential.
    h. Continue to keep the broker liable for the acts of the agent.
89. Support local efforts to fight for the continued right for real estate-associated signage to be placed on public or private property with

permission of the property owner or appropriate party.

Insurance

90. Support efforts to promote affordability and availability of homeowners insurance.

–2018 - 2019 Legislative Program Policy Positions

The following statements have been formulated and compiled as a result of the REALTOR® Caucus as well as revised/updated policy positions from the 2017 - 2018 approved positions. The list contains specific issues that AAR expects to introduce or strongly support as part of a coalition in the upcoming session or two. The following AAR legislative statements are positions AAR will address during the next two years.

- Continue to monitor and actively engage in any anti-deficiency legislation with the goal of protecting current anti-deficiency statutes.
- Proactively lobby to continue to protect the Mortgage Interest Deduction.
- Monitor and work on legislation within constitutional boundaries, as may prove necessary, to limit an HOA's ability to: (1) restrict private property rights; and (2) charge assessments and other fees.
- Continue to work at the Arizona Corporation Commission on solar lease agreements, rate design and consumer protections.
- Continue to monitor any changes to current line extension policies at the Arizona Corporation Commission.
- Continue to monitor the 'broadening of the base' as it pertains to TPT (Transaction Privilege Tax) statutes.
- Continue to work with the Department of Revenue on the streamlining of TPT (Transaction Privilege Taxes).
- Research the possibility of enacting, when appropriate, a new constitutional amendment to prohibit Professional Service Taxes for all services not taxed from and after December 31, 2017 through a statewide ballot measure.
- Work with Appraisal Board Executive Director to address concerns regarding appraisals and process to challenge appraisals.
- Review and take possible action regarding the 1% tax cap in Pima County.
- Monitor Independent Contractor status.
- Introduce legislation to restrict municipalities from establishing sign ordinances outside of "time, place and use" restrictions.
- Research Neighborhood Property Owner's Associations (NPOA) and Property Owner's Associations (POA) to determine their prevalence in Arizona and to better understand their structure and applicable statutes.
- Continue to monitor and work with various stakeholders on impact fee legislation.
- Continue to monitor and engage in the ADEQ Rules review process, specifically as it relates to the Notice of Transfer Program.
- Continue to monitor and review any legislation as it pertains to online pre-licensing education.
- Oppose any legislation to remove or eliminate real estate licensure.
- Oppose any legislation to remove or eliminate home inspector licensure.
- Introduce legislation to allow real estate licensees to sell new mobile homes and new manufactured homes and the private land to which they are affixed outside of a mobile home park (defined by statute).
- Continue to monitor and actively engage in the Governor's stakeholder meetings, legislation and executive orders as it pertains to water.
- Work with the Arizona Department of Real Estate Commissioner to expand the Commissioners Rules to include continuing education on the subject of cybercrime.

Commented [NL1]: Was not brought forward at the REALTOR Caucus and the governor has actively expressed that he will not create additional licensure, including that for HOA property management companies.

Commented [NL2]: Was not brought forward at the REALTOR Caucus and the Rule Moratorium continues to be in place, effectively rendering this unattainable.

Commented [NL3]: Rolled into following position.

Commented [NL4]: Accomplished, now it is a function of working with the department to streamline.

Commented [NL5]: Completed in 2017.

Commented [NL6]: Completed in 2017.

Commented [NL7]: Purposely left broad to account for the multiple water proposals that have been floated by the Governor's office.