

**The Arizona REALTORS® Risk Management Committee
2019 Business Plan**

FROM: Risk Management Committee (RMC)
Chairman: Lisa Paffrath
Vice Chairman: Jim Durham
RMC Liaison: Scott M. Drucker
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REALTOR®... the best prepared real estate professional with the highest standards.

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

CURRENT TOP PRIORITIES

- **Continue Grievance Committee and Professional Standards support**
 - Maintain and enhance Ethics hearing and Arbitration hearing process
 - Quarterly Professional Standards Newsletter – 9/27/18
- **Enhance dispute resolution services**
 - Administer the Buyer/Seller Dispute Resolution Program
 - Administer the Mediation and Ombudsman Programs
 - Professional Standards Workshop - 2/7/18
 - Professional Standards Mediator and Ombudsman training - 10/25/18
- **Forms**
 - Release revised Buyer Contingency Addendum
 - Revise Commercial Real Estate Purchase Contract
- **Legal Hotline Support**
 - Continue promotion efforts
- **Regulatory Issues**
 - Continue to work with ADRE
 - ADRE Advisory Board meetings - met on 10/24/18
 - ADRE Partner's meetings – met on 8/20/18
 - ADRE Real Estate Teams Workgroup – 9/17/18
- **Risk management education and information**
 - AZ REALTOR® Voice articles
 - AAR website articles and blogs
 - Scams & Frauds, Short Sales
 - Arizona Broker/Manager Quarterly – 11/28/18
 - Update Advisories – Revised Buyer Advisory – 10/18

RECOMMENDATIONS

- **Approve for release in February 2019 a revised Commercial Real Estate Purchase Contract**
- **Approve for release in February 2019 a revised Cure Period Notice**

- Approve for release in February 2019 a revised Commercial Buyer’s Inspection Notice and Seller’s Response, and a revised Commercial Short Sale Addendum to Purchase Contract
- Approve for release in February 2019 a revised Move-In/Move-Out Condition Checklist and a revised Residential Lease Agreement

GROUPS CURRENTLY FORMED

- Commercial Real Estate Purchase Contract Workgroup
- Forms Provider Replacement Workgroup

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
- **Mediation Program**
- **Ombudsman Program**

Measurable Goals:

| Measurable objectives | Status |
|---|--|
| <ul style="list-style-type: none"> • GVC: Prompt review of complaints | 3rd Quarter 2018 Filings Ethics = 27 Arbitration = 7 |
| <ul style="list-style-type: none"> • PSC: Complete ethics cases promptly | 3rd Quarter 2018 Ethics Hearings Held = 3 |
| <ul style="list-style-type: none"> • PSC: Complete arbitrations promptly | 3rd Quarter 2018 Arbitration Hearings Held = 1 |
| <ul style="list-style-type: none"> • Update PS policy adaptations as necessary | On-Going |
| <ul style="list-style-type: none"> • Reinforce, on a continuing basis, AAR PS benefits and results | On-Going |

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 | 3rd Quarter 2018 Mediations Requested = 31 Held = 14 Successful = 9 |
| <ul style="list-style-type: none"> • Receive positive feedback from mediation evaluations | On-Going |
| <ul style="list-style-type: none"> • Maintain list of qualified mediators | 18 mediators for 3rd Quarter 2018 |
| <ul style="list-style-type: none"> • Update mediation policies and procedures as necessary | On-Going |

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

Measurable Goals:

| Measurable objectives | Status |
|--|--|
| <ul style="list-style-type: none"> Facilitate ombudsman requests on a timely basis | 3rd Quarter 2018 Ombudsman requests Filed = 8 Out of Scope = 1 Unsuccessful = 3 Successful = 4 |
| <ul style="list-style-type: none"> Receive positive feedback from ombudsman evaluations | On-Going |
| <ul style="list-style-type: none"> Maintain list of qualified ombudsmen | 14 Ombudsman for 3rd Quarter 2018 |
| <ul style="list-style-type: none"> Update PS policy adaptations as necessary | On-Going |

Professional Standards, Mediation, and Ombudsman Education and Training

This program includes training for members of Grievance and Professional Standards Committees and The Arizona REALTORS® Mediators and Ombudsmen.

Measurable Goals:

| Measurable objectives | Status |
|---|---|
| <ul style="list-style-type: none"> Offer PS Training for GVC and PS Committee | Professional Standards Workshop held on February 7, 2018 |
| <ul style="list-style-type: none"> PS Policy & Training Workgroup meeting | Held when needed |
| <ul style="list-style-type: none"> Offer Mediator training | October 25, 2018 |
| <ul style="list-style-type: none"> Offer Ombudsman training | October 25, 2018 |
| <ul style="list-style-type: none"> Offer hearing panel chair training | April 18, 2018 |
| <ul style="list-style-type: none"> Publish PS, Mediation and Ombudsman information | Quarterly Newsletter sent September 27, 2018 |
| <ul style="list-style-type: none"> PS outreach to members | On-Going |

Buyer-Seller Dispute Resolution This program provides alternative dispute resolution options (mediation or arbitration) for buyers and sellers to resolve disputes or claims arising out of The Arizona REALTORS® purchase contract.

Measurable Goals:

| Measurable objectives | Status |
|--|-----------------|
| <ul style="list-style-type: none"> Offer an effective Buyer-Seller Dispute Resolution program | On-Going |
| <ul style="list-style-type: none"> Recruit effective Buyer-Seller Dispute Resolution providers | On-Going |
| <ul style="list-style-type: none"> Ensure compliance of Buyer-Seller Dispute providers with program's directives | On-Going |
| <ul style="list-style-type: none"> Receive positive feedback from Buyer-Seller Dispute Resolution program evaluations | On-Going |

RISK MANAGEMENT

Forms Development This program involves:

Creation of workgroups

Drafting - Draft new forms as needed and revise current forms

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

Brief description of how the PPSA contributes to achieving The Arizona REALTORS® vision: The

Measurable Goals:

| Measurable objectives | Status |
|---|--|
| <ul style="list-style-type: none"> • Workgroups formed as necessary | <ul style="list-style-type: none"> - Commercial Purchase Contract Workgroup - Forms Provider Replacement Workgroup |
| <ul style="list-style-type: none"> • Protect our forms copyright | <p>On-Going</p> <ul style="list-style-type: none"> - Lawsuit filed 3/2/18 |
| <ul style="list-style-type: none"> • Forms drafted or revised for introduction in February, June and October 2018 | <ul style="list-style-type: none"> - Residential Lease Owner's Property Disclosure Statement 2/18 - Additional Clause Addendum 2/18 - On-Site Wastewater Treatment Facility Addendum 6/18 - Notice of Abandonment 8/18 <i>(Special release date.)</i> - Buyer Contingency Addendum - Critical Dates List |
| <ul style="list-style-type: none"> • Deliver timely forms information/education | <ul style="list-style-type: none"> - Post articles on aaronline.com, AAR Blog and The Voice - Maintain Short Sale webpage - Maintain Scams and Frauds webpage |
| <ul style="list-style-type: none"> • Promote and update the educational tool kit for teams and brokers on best practices and guidelines for management of teams | <p>On-Going</p> |
| <ul style="list-style-type: none"> • Promote and update a webpage that includes safety education, incident recordation and contemporaneous incident notification via a REALTOR® text alert system (ASAP) | <p>On-Going</p> |

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 | <p>On-Going</p> |
| <ul style="list-style-type: none"> • Hotline to prepare ten Q&As on current issues/current "hot topics" six times per year | <p>On-Going</p> |

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| for the Arizona REALTOR® Voice and AAR website | |
| <ul style="list-style-type: none"> Hotline to maintain statistics on number and types of calls in cooperation with AAR staff | On-Going |
| <ul style="list-style-type: none"> Hotline attorney to attend AAR Risk Management Committee or Workgroup meetings as requested | 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 | On-Going |
| <ul style="list-style-type: none"> Hotline attorney to consult with AAR General Counsel on legal issues as requested | On-Going |
| <ul style="list-style-type: none"> Evaluate Hotline program by surveying members | To-Do |
| <ul style="list-style-type: none"> Form Hotline Workgroup to evaluate program | To-Do |

Industry Issues This program involves addressing current industry issues.

Measurable Goals:

| Measurable objectives | Status |
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| <ul style="list-style-type: none"> Maintain claims statistics to identify liability trends | On-Going |
| <ul style="list-style-type: none"> Foster alliances with defense attorneys and E&O carriers and mediators | On-Going |
| <ul style="list-style-type: none"> As of 2018, monitor marijuana legal conflicts, solar, marketing service agreements, and comfort animals - Keep members informed as these issues evolve | On-Going |
| <ul style="list-style-type: none"> Educate agents on potential ethical and legal liabilities associated with off-market listings | On-Going |
| <ul style="list-style-type: none"> Share with agents the dangers posed by social media | On-Going |
| <ul style="list-style-type: none"> Increase promotion and education of federal regulatory changes and enforcement; respond to changes and monitor | On-Going |
| <ul style="list-style-type: none"> Monitor cyber-fraud and cyber-security issues and keep members informed of risks, as well as policies and procedures members can implement to mitigate those risks | On-Going <ul style="list-style-type: none"> - Cyber Security Task Force formed - Wire Fraud Advisory drafted and released - Cyber Security Broker Policies and Procedures drafted and released - A flyer on steps to take if a victim of wire transfer fraud drafted and released - Cyber Insurance Guide drafted and released |
| <ul style="list-style-type: none"> Monitor the Americans with Disabilities Act website accessibility issues and keep members informed as the issue evolves | On-Going |

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| <ul style="list-style-type: none"> Collaborate with local associations, regional vice presidents and multiple listing services to identify risk management needs for members, associations and regions | <p>On-Going</p> <ul style="list-style-type: none"> RVPs contacted on February 8, 2018 and August 7, 2018 Numerous speaking engagements |
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Legal & Industry Publications This program includes:

- Risk Management articles for The Arizona REALTORS® publications, ASREB Journal and other publications
- Articles on emerging legal issues for The Arizona REALTORS® publications, ASREB Journal and other publications
- Arizona Real Estate: A Professional's Guide to Law and Practice*
- AZ Broker/Manager Quarterly
- Buyer Advisory
- Short Sale Seller Advisory
- Lease Owner's Advisory
- Tenant Advisory
- Legal information and risk management information on website (Short Sales blog, Scams & Frauds webpage)
- Spanish translations
- 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 | <p>Articles recently published on:</p> <ul style="list-style-type: none"> Fixing and Flipping by REALTORS® Abandoned Property Law Change HB 2651; Changes to ARLTA Renewal of Protecting Tenants at Foreclosure Act AIR CRE member discount Shady Brady; Statute of Frauds Notice of Abandonment Release Contract Guidelines for Commercial Forms Communicating with an Appraiser "As-Is" not needed Cyber Insurance Guide |
| <ul style="list-style-type: none"> Deliver Arizona Broker/Manager Quarterly | On-Going |
| <ul style="list-style-type: none"> Maintain advisories as necessary: Buyer Advisory, Short Sale Seller Advisory, Lease Owners Advisory, Tenant Advisory | On-Going |
| <ul style="list-style-type: none"> Maintain and update legal, risk management, fair housing, and international real estate content on AAR's website and in publications, as necessary | On-Going |

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| <ul style="list-style-type: none"> Promote and continue to develop resources that assist brokers in operating a brokerage that is of value to the public, agents, and the real estate industry (i.e. risk management, legal hotline, etc.) | On-Going |
| <ul style="list-style-type: none"> Direct agents to their brokers | On-Going |
| <ul style="list-style-type: none"> Direct members to AARonline.com for relevant risk management resources | On-Going |

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 | On-Going |

Legislative Support This program includes:

- Provide input on industry issues
- Assist the Arizona REALTORS® 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 | Advise on legislation pertaining to: <ul style="list-style-type: none"> - Tax law effects of Prop. 126 - Sign ordinances - The sale of new mobile/manufactured homes by real estate licensees - HOA licensing and related HOA issues - Awarding attorneys' fees in construction defect cases |
| <ul style="list-style-type: none"> Promote laws (legislative and case law), regulations, and standards of practice that reduce member liability | 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 The Arizona REALTORS® 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 | - Appointed to assist ADRE in drafting Substantive Policy Statement on Teams |
| <ul style="list-style-type: none">• Maintain contact with ADRE Advisory Board | Met on October 24, 2018 |

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 PPSAs | 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. | On-Going |

Litigation Support Related activities without direct committee oversight:

- Draft Amicus Briefs and monitor litigation and potential litigation or disputes in which The Arizona REALTORS® 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 The Arizona REALTORS® on any claims or issues

Measurable Goals:

| Measurable objectives | Status |
|--|--|
| <ul style="list-style-type: none">• Successful outcome in litigation and dispute resolution. | On-Going <ul style="list-style-type: none">- Copyright infringement lawsuit filed by Arizona REALTORS® on March 2, 2018 |