

Arizona REALTORS®
RISK MANAGEMENT COMMITTEE
2020 Business Plan

FROM: Risk Management Committee (RMC)
Chairman: Jim Durham
Vice Chairman: Laurie McDonnell
RMC Liaison: Scott M. Drucker
DATE: October 21, 2020

REALTOR®... the best prepared real estate practitioner 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
 - Professional Standards Newsletter – 9/20
- **Enhance dispute resolution services**
 - Administer the Buyer/Seller Dispute Resolution Program
 - Administer the Mediation and Ombudsman Programs
 - Professional Standards Workshop – 2/18/20
 - Professional Standards Mediator and Ombudsman training - 10/15/20 and 10/28/20
- **Forms**
 - Draft statewide ER and EA Listing Contracts
 - Revise Buyer Broker Exclusive Employment Agreement
- **Legal Hotline Support**
 - Continue promotion efforts
- **Regulatory Issues**
 - Continue to work with ADRE
 - ADRE Advisory Board meetings - met on 7/22/20
 - ADRE Partner's meetings – met on 8/27/20
- **Risk management education and information**
 - AZ REALTOR® Voice articles and Risk Management Videos
 - Arizona REALTORS® website articles and blogs
 - Scams & Frauds, Short Sales
 - Arizona Broker/Manager Quarterly – 8/26/20
 - Update Advisories – Revised Buyer Advisory – 7/20

RECOMMENDATIONS

TO APPROVE FOR RELEASE ON OR ABOUT FEBRUARY 1, 2021 A REVISED BUYER-BROKER EXCLUSIVE EMPLOYMENT AGREEMENT.

GROUPS FORMED

- **Statewide ER/EA Listing Contract Workgroup**

PROFESSIONAL STANDARDS

Professional Standards is what sets REALTORS® apart from other licensees and is a real solution to enforcing the highest standards. Professional Standards is of critical importance to those aspiring to the Arizona REALTORS® Purpose.

PROFESSIONAL STANDARDS ADMINISTRATION

This program processes 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 Objectives	Status
GVC: Prompt review of complaints	2nd Quarter 2020 Filings Ethics = 16 Arbitration = 4
PSC: Complete ethics cases promptly	2nd Quarter 2020 Ethics Hearings Held = 18
PSC: Complete arbitrations promptly	2nd Quarter 2020 Arbitration Hearings Held = 2
Update PS policy adaptations as necessary	On-Going
Reinforce, on a continuing basis PS benefits and results.	On-Going
Implement procedures to expedite the hearing process and evaluate whether additional resources are needed to accomplish this.	On-Going
Educate members about the PS enforcement process.	On-Going

MEDIATION PROGRAM

This program involves facilitating mediations to resolve ethics complaints and arbitration requests. The mediation program is a real solution for members involved in a dispute. Early dispute resolution is of critical importance to those aspiring to the Arizona REALTORS® Purpose.

Measurable Objectives	Status
Facilitate mediation requests on a timely basis	2nd Quarter 2020 Mediations Requested = 10 Held = 13 Successful = 3
Receive positive feedback from mediation evaluations	On-Going
Maintain list of qualified mediators	21 mediators for 2nd Quarter 2020
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. The Ombudsman Program is a real solution for the public when members are involved in a dispute or miscommunication. Early dispute resolution is of critical importance to those aspiring to

the Arizona REALTORS® Purpose.

Measurable Objectives	Status
Facilitate ombudsman requests on a timely basis	2nd Quarter 2020 Ombudsman requests Filed = 10 In Scope = 9 Unsuccessful = 5 Successful = 5
Receive positive feedback from ombudsman evaluations	On-Going
Maintain list of qualified ombudsmen	13 Ombudsman for 2nd Quarter 2020
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. Professional Standards is a real solution for members and is critical to achieving the highest standards. Professional Standards, Mediation and Ombudsman training is of critical importance to those aspiring to the Arizona REALTORS® Purpose.

Measurable Objectives	Status
Offer PS Training for GVC and PS Committee	Annual Professional Standards Workshop held on February 18, 2020
PS Policy & Training Workgroup meeting	April 24, 2019
Offer Mediator training	October 15, 2020
Offer Ombudsman training	October 28, 2020
Offer hearing panel chair training	February 18, 2020
Publish PS, Mediation and Ombudsman information	Quarterly Newsletter sent September, 2020. Website updated quarterly.
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. The Buyer-Seller Dispute Resolution program is a real solution that provides buyers and sellers an effective and affordable means to resolve their disputes outside of the court system. Providing buyers and sellers with a way to resolve their disputes is pivotal to our members' real estate practice.

Measurable Objectives	Status
Offer an effective Buyer-Seller Dispute Resolution program.	On-Going
Recruit effective Buyer-Seller Dispute Resolution providers.	On-Going
Ensure compliance of Buyer-Seller Dispute providers with program's directives.	On-Going
Receive positive feedback from Buyer-Seller Dispute Resolution program evaluations.	On-Going

RISK MANAGEMENT

The contracts, addenda and related forms are the core of the member's business and a real solution to the issues that arise in a real estate transaction. The contracts, addenda and related forms are critical to our members' real estate practice.

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.

Measurable Objectives	Status
Workgroups formed as necessary.	EA/ER Workgroup
Protect our forms copyright.	On-Going - Lawsuit settled and we have now received the last settlement check from Defendants
Forms drafted or revised for introduction in February, June and October.	February 2020 - Residential Resale Real Estate Purchase Contract - Commercial Property Owner’s Association Addendum - Vacant Land/Lot Purchase Contract Buyer Attachment Page June 2020 - HOA Condominium / Planned Community Addendum - Counter Offer
Deliver timely forms information/education.	- Post articles on aaronline.com, AAR Blog and The Voice, maintain Short Sale webpage and maintain Scams and Frauds webpage - Created COVID-19 Arizona REALTORS® Relief Hotline
Promote and update the educational tool kit for teams and brokers on best practices and guidelines for management of teams.	On-Going
Promote and update a webpage that includes safety education, incident recordation and contemporaneous incident notification via a REALTOR® text alert system (ASAP).	On-Going
Direct agents to their brokers and aaronline.com for relevant risk management resources.	On-Going

LEGAL HOTLINE

The Hotline is a real solution to provide needed guidance to members on specific situations or transactions. Timely legal guidance is crucial to the members. 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 Objectives	Status
Promote Hotline usage.	On-Going
Hotline to prepare ten Q&As on current issues/current “hot topics” six times per year for the Arizona REALTOR® Voice and the Arizona REALTORS® website.	On-Going

Hotline to maintain statistics on number and types of calls in cooperation with the Arizona REALTORS® staff.	On-Going
Hotline attorney to attend the Arizona REALTORS® Risk Management Committee or Workgroup meetings as requested.	On-Going
Hotline attorney to review new or revised Arizona REALTORS® forms and notify the Arizona REALTORS® of any legal concerns or recommendations.	On-Going
Hotline attorney to consult with the Arizona REALTORS® General Counsel on legal issues as requested.	On-Going
Evaluate Hotline program by surveying members.	Completed 7/19
Form Hotline Workgroup to evaluate program.	Risk Management Committee to serve in this role

INDUSTRY ISSUES

This program involves addressing current industry issues. Addressing industry issues as they arise is a real solution to provide needed guidance to members on specific situations or transactions. Guidance on industry issues as they arise is crucial to the members.

Measurable Objectives	Status
Maintain claims statistics to identify liability trends.	On-Going
Foster alliances with defense attorneys and E&O carriers and mediators.	On-Going
Monitor marijuana legal conflicts, solar, marketing service agreements, and comfort animals - Keep members informed as these issues evolve.	On-Going
Educate agents on potential ethical and legal liabilities associated with off-market listings, fix and flips and REALTOR® as principal transactions.	On-Going
Share with agents the dangers posed by social media.	On-Going
Increase promotion and education of federal regulatory changes and enforcement; respond to changes and monitor.	On-Going
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 - Flyer on steps to take if a victim of wire transfer fraud drafted and released - Cyber Insurance Guide drafted and released - Purchase Contract Flash Page and Vacant Land/Lot Purchase Contract Flash Page revised to address wire transfer fraud

	- Wire Fraud warnings inserted in Buyer Advisory and Tenant Advisory
Monitor the Americans with Disabilities Act website accessibility issues and keep members informed as the issue evolves.	On-Going
Collaborate with local associations, regional vice presidents and multiple listing services to identify risk management needs for members, associations and regions.	On-Going - Feedback solicited from RVPs via monthly “Talking Points” sent to all ExCom members. - Numerous speaking engagements

LEGAL & INDUSTRY PUBLICATIONS

Our members need current, accurate, and timely legal, legislative, and risk management updates and information to reduce liability and insure their business success. These publications are a real solution that assists our members in achieving the Arizona REALTORS® Vision. Current, accurate, and timely legal, legislative and risk management updates and information are of critical importance to our members. 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 Objectives	Status
Distribution of time sensitive legal and risk management information and articles.	Articles recently published on: - COVID-19 Causes Suspension of Some Evictions - Real Estate Wholesaling - Don’t Let Your Sellers be Fooled by an Amendatory/Escape Clause - Unicorns, Magic Wands and Standards Commissions - City of Phoenix v. State of Arizona; Supreme Court Protects REALTORS® - Baffling BINSRs - What Happens When Buyer Fails to Cite Reason For Contract Cancellation - Avoid Using “On or Before” in Contracts - Conviction Disclosure Process - Will Mortgage Forbearance Ruin My Credit?

	<ul style="list-style-type: none"> - Are You Adding Confusion to an Addendum? - Eviction After Trustee's Sale Must Be Filed in Superior Court - Anticipatory Breach - COVID-19 Relief Hotline: Mission Accomplished
Deliver Arizona Broker/Manager Quarterly.	Delivered 8/26/20
Maintain advisories as necessary: Buyer Advisory, Short Sale Seller Advisory, Lease Owners Advisory, Tenant Advisory.	On-Going
Maintain and update legal, risk management, fair housing, and international real estate content on the Arizona REALTORS® website and in publications, as necessary.	On-Going
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
Direct agents to their brokers.	On-Going
Direct members to aaronline.com for relevant risk management resources.	On-Going

LEGAL AND LEGISLATIVE OUTREACH AND EDUCATION

This plan provides a real solution for delivering timely Arizona-specific legal, legislative, and risk management information and education to members. To succeed in real estate and attain the Arizona REALTORS® Purpose, it is essential that our members have access to timely Arizona-specific legal, legislative, and risk management information 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 Objectives	Status
Participation in legal and legislative programs.	On-Going

LEGISLATIVE SUPPORT

Representation on legislative issues that affect the Arizona REALTORS® member's livelihood and success is a real solution for members striving to achieve the Arizona REALTORS® Purpose. Protecting members' legislative interests is key to allowing members the ability to achieve the Arizona REALTORS® Purpose. 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 Objectives	Status
Successful outcome in legislation supported and successful defeat of legislation opposed.	Advise on legislation pertaining to: <ul style="list-style-type: none"> - Collection of rent by unlicensed individuals - Tax law effects of Prop 126 - HOA licensing and related HOA issues - Short-term rentals

	<ul style="list-style-type: none"> - Remote online notarization - Department of Revenue Electronic Signatures
Promote laws (legislative and case law), regulations, and standards of practice that reduce member liability.	On-Going

REGULATORY ISSUES

Representation on regulatory issues that affect the Arizona REALTORS® members' livelihood and success is a real solution for members achieving the Arizona REALTORS® Purpose. Protecting the Arizona REALTORS® and its members' regulatory interests are fundamental to allowing members the ability to achieve the Arizona REALTORS® Purpose. 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 Objectives	Status
Negotiation of reasonable regulatory rules and policies that are acceptable to the Arizona REALTORS® members and do not hinder their success.	<ul style="list-style-type: none"> - Met with ADRE on 10/22/19 to discuss 2020 legislative agenda - Met with ADRE on 1/24/20 to finalize Substantive Policy Statement on Teams - Met with ADRE on 4/27/20 to discuss live-stream education classes
Maintain contact with ADRE Advisory Board.	Met on 1/15/20

GENERAL PROGRAMS

SUPPORT

Provide critical support to accomplish the goals of this Committee's programs and services. The support services and resources allow the committee to provide the Arizona REALTORS® Members with the most up-to-date information on Professional Standards, legal, legislative, regulatory and industry issues. 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 Objectives	Status
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

A real solution to leadership, CEO, committees, and local associations in developing programs with legal implications and effectively leading the association. Allows the association to provide programs to assist members to be the best prepared with the highest standards. This program includes:

- 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 Objectives	Status
CEO, state leadership, committees, and local association executives are informed on legal issues and questions satisfactorily answered.	On-Going

LITIGATION SUPPORT

Representation on legal issues that affect the Arizona REALTORS® member’s livelihood and success is a real solution that leads to more members living the Arizona REALTORS® purpose. Protecting the Arizona REALTORS® and its members’ legal interests are key to allowing members the ability to achieve the Arizona REALTORS® Purpose. 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 Objectives	Status
Successful outcome in litigation and dispute resolution.	<p>On-Going</p> <ul style="list-style-type: none"> - Funded Supreme Court Special Action Petition to Declare Executive Order 2020-49 Unconstitutional; <i>Arizona Multihousing Association, et al v. Fritz, et al.</i> - Filed Amicus Brief in <i>Arizona Multihousing Association, et al v. Fritz, et al.</i> - Filed Amicus Brief in <i>State of Arizona v. City of Phoenix</i> (regarding application of Prop 126) - Monitor <i>Moehl v. NAR, et al.</i> - Joined amicus brief in <i>State of New York v. US Dept. of Labor</i>